

CHAPTER 687

AN ACT in relation to the retirement of certain public officers and employees and to old-age and survivors insurance coverage, constituting chapter fifty-one-a of the consolidated laws Became a law April 25, 1955, with the approval of the Governor. Passed, by a majority vote, three-fifths being present
The People of the State of New York, represented in Senate and Assembly, do enact as follows:

ARTICLE 1

SHORT TITLE

Section 1. Short title of chapter.

Section 1. Short title of chapter. This chapter shall be known and may be cited as the "Retirement and Social Security Law".

ARTICLE 2

NEW YORK STATE EMPLOYEES' RETIREMENT SYSTEM

TITLE 1

Section 2. Definitions.

§ 2. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

1. "Accumulated contributions." The sum of all the amounts deducted from the compensation of a member or contributed by him, standing to the credit of his individual account in the annuity savings fund together with regular interest and special interest, if any, thereon.

2. "Annual compensation."

a. The salary or wages annually earnable by a member, including maintenance, or any allowance in lieu thereof, received by the member.

b. The compensation earnable and any allowance of expenses or maintenance, or any allowance in lieu thereof, received by a member as a delegate, officer or employee of the conventions to revise and amend the constitution of the state in the years nineteen hundred thirty-eight or nineteen hundred sixty-seven or both.

3. "Annuity." The annual allowance for life, payable in monthly installments and derived from a member's accumulated contributions made pursuant to this article.

4. "Annuity reserve." The present value of all payments to be made on account of any annuity or benefit in lieu of any annuity granted as provided in this article, computed upon the basis of regular interest and such mortality tables as shall be adopted by the comptroller.

5. "Beneficiary." Any person in receipt of a retirement allowance, or other benefit pursuant to this article.

6. "Comptroller." The comptroller of the state.

7. "Department." Any agency of an employer or any unit of government employing persons who are or may be entitled to become members of the retirement system.

8. "Employer." The state, a participating employer, and any other unit of government or organization obligated or agreeing, under this article, to make contributions to the retirement system on behalf of its employees.

9. "Final average salary."

a. The average annual compensation of a member for credited government service not exceeding his three years of credited government service

immediately preceding his date of retirement.

b. In the case of a member having credit for three years or more of member service, such term shall mean his highest average annual compensation earned during any three consecutive years of member service for which he is credited, provided that a member by written request, filed with the comptroller prior to the effective date of retirement and in form satisfactory to the comptroller, may select any other period of three consecutive years of member service for which he is credited.

c. In the case of a member who:

(1) Served as a supervisor of a town when such town was not a participating employer, and

(2) Was paid for such services on a fee basis, and

(3) Upon the town's subsequently becoming a participating employer, has paid contributions to the retirement system with respect to salary received for prior county services, such term shall mean, at the option of such member, his average annual compensation, including such fees and salary, earned by him during any three consecutive years of service with such municipality selected by the applicant prior to the date of his retirement.

10. "Fiscal year." Any year commencing April first and ending March thirty-first next following.

11. "Government service." Paid service as follows:

a. Service as an officer or employee of an employer, including service:

(1) As a delegate, officer or employee of the conventions to revise and amend the constitution of the state in the years nineteen hundred thirty-eight or nineteen hundred sixty-seven or both, or

(2) Rendered to a village which became a city on or before May twenty-fourth, nineteen hundred twenty-three.

b. Service as a public school teacher in the state rendered while contributing to a local retirement system, subsequently absorbed by the

state teachers' retirement system, and where the contributions made thereto were not returned to such contributor.

c. Teaching service in an institution for the instruction of the deaf, mute or the blind, which receives state pupils whose instruction and support are paid for by the state or a participating employer.

d. Library service from July first, nineteen hundred twenty-two, only to the extent that such service is paid from appropriations by a participating employer.

e. Service in any city or county institution that became a state institution on or before May eleventh, nineteen hundred twenty, only to the extent that such service is paid for by the state or by such institution.

Except as otherwise specifically provided in this article, service rendered on and after January first, nineteen hundred twenty-one, by a person entitled to retirement benefits for civil service employees pursuant to other laws, wholly or partly at the expense of the state or any political subdivision thereof, however, shall not constitute government service.

12. "Group." Any group created under the provisions of section twelve of this article.

12-a. "Infant." Any person who has not attained the age of eighteen years.

13. "Local legislative body."

a. In the case of a county, the board of supervisors.

b. In the case of a city, the council, common council or board of aldermen and the board of estimate, board of estimate and apportionment or board of estimate and contract, if there be one.

c. In the case of a town, the town board.

d. In the case of a village, the board of trustees.

e. In the case of a school district, the board of education, the board of trustees, the trustee or trustees.

f. In the case of any other municipality, the body charged by law with the government or management thereof.

14. "Local pension system." Any retirement, pension or annuity fund or system of any county, city, town or village of the state.

15. "Medical board." The board of physicians provided by section seventy-four of this article.

16. "Member." Any person included in the membership of the retirement system as provided in section forty of this article.

17. "Member service."

a. Any government service rendered in the employ of the state subsequent to January first, nineteen hundred twenty-one.

b. Any government service rendered in the employ of a participating employer subsequent to the date it becomes a participating employer.

c. Any government service rendered in the employ of a county, city, town or village, between the first date of its eligibility to participate in the retirement system and the first date of its actual participation therein, provided such municipality elected to so participate within the first year of its eligibility to do so.

18. "Minimum retirement age." Age sixty, except that as to members who shall have elected to contribute on the basis of retirement at age fifty-five, such term shall mean age fifty-five.

19. "Municipality." A county, city, town, village, public authority, school district, police district or fire district, a river improvement, river regulating or drainage district, established by or under the supervision of the department of conservation, or any other local unit of government or territorial division of the state by whatever name called possessing the power (a) to contract indebtedness and (b) to levy taxes or benefit assessments upon real estate or to require the levy of such taxes or assessments.

20. "Participating employer." Any municipality, library, or public or quasi-public organization participating in the retirement system.

21. "Payroll." Annual compensation earnable by members, when used as a basis for determination of the amount to be contributed by an employer to the retirement system.

22. "Pension." The annual allowance for life, payable in monthly installments, derived from contributions made to the pension accumulation fund pursuant to this article.

22-a. "Pension-providing-for-increased-take-home-pay." The annual allowance for life payable in monthly installments derived from contributions made to the pension accumulation fund pursuant to section seventy-a of this article.

23. "Pension reserve." The present value of all payments to be made on account of any pension, or benefit in lieu of any pension, granted as provided in this article, computed upon the basis of regular interest and such mortality tables as shall be adopted by the comptroller.

24. "Prior service." Not to exceed a total of thirty-five years of service rendered as follows:

a. Government service rendered to the state prior to January first, nineteen hundred twenty-one.

b. Government service rendered to a participating employer, other than

as provided in section thirty-one or thirty-two of this article, prior to the first date of eligibility of such employer to participate in the retirement system. In the case of any such participating employer which did not elect to participate in the retirement system until after its first year of eligibility to so participate, such term shall mean, in addition, three-fourths of all government service rendered to it between its first date of eligibility to so participate and the date when it became a participating employer. The local legislative body of such employer, by resolution duly adopted, may determine to allow full credit therefor.

c. Service allowed as prior service by an employer pursuant to section thirty-one or thirty-two of this article.

d. Service of honorably discharged officers, soldiers, sailors, marines and army nurses who were actual residents of the state at the time of their entry into the military service of the United States or, if not actual residents of the state at that time, are or were or are hereafter employes of a participating employer created by and deriving its powers from an agreement between this state and any other state and were actual residents of such other state at the time of their entry into the military service of the United States:

(1) Rendered in time of war and prior to July second, nineteen hundred twenty-one, or

(2) Rendered with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, provided such entry occurred after November eleventh, nineteen hundred eighteen.

e. Service of members of the national guard in the military service of the United States pursuant to the call of the president for Mexican border duty.

25. "Rate of normal contribution."

a. In the case of an employer, the rate of annual contribution computed pursuant to paragraph one of subdivision b of section

twenty-three of this article.

b. In the case of a member, the basic rate of contribution determined without modification pursuant to subdivision b of section twenty-one of this article.

26. "Regular interest."

a. Such term shall mean interest recommended by the actuary and promulgated by the comptroller as provided in paragraph four of subdivision b of section eleven of this article, which is in effect on the date of a member's retirement, and such rate shall be at no less than four per centum per annum and at no more than seven per centum per annum, compounded annually.

b. However, for purposes of crediting interest to individual accounts in the annuity savings fund, such term shall mean four per centum per annum, compounded annually, in the case of persons who last became members on or before June thirtieth, nineteen hundred forty-three and shall mean three per centum per annum, compounded annually, in the case of persons who last became members on or after July first, nineteen hundred forty-three.

26-a. "Reserve-for-increased-take-home-pay." The amount of the reserve provided by the employer which shall be equivalent to that per centum of the member's compensation by which his contribution is reduced or would otherwise be reduced if his rate of contribution equaled or exceeded eight per centum as provided in subdivision a of section seventy-a of this article and that per centum by which his contribution is suspended as provided in subdivision aa of section seventy-a of this article during the period his employer contributes pursuant to section seventy-a of this article toward pensions-for-increased-take-home-pay, plus regular interest thereon.

27. "Retirement allowance." The annuity plus the pension and the pension-providing-for-increased-take-home-pay, if any.

28. "Retirement system." The New York state employees' retirement system provided for in section ten of this article.

29. "Service in the Korean conflict." Military service during the period commencing June twenty-seventh, nineteen hundred fifty, and terminating January thirty-first, nineteen hundred fifty-five, as a member of the armed forces of the United States of any person who:

a. (1) Has been honorably discharged or released therefrom under honorable circumstances, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and

b. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state and was a resident of such other state at the time of his entrance into such armed forces, and

c. Was a member of the retirement system and an employee of the state or of a participating employer at the time he entered such armed forces or was an employee of an employer which was not a participating employer at the time he entered such armed forces but which elected to become a participating employer while he was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined in article eleven of the education law at the time of his entrance into the armed forces and became a member of the retirement system subsequent to separation or discharge from the armed services, and

d. Returned to the employment of the state or a participating employer, within one year following discharge or release or completion of advanced education provided under the servicemen's readjustment act

of nineteen hundred forty-four, certified on a certificate for service in war after world war I, and allowable as provided in section forty-one of this article. Such service shall not include any periods during which civil compensation was received by the member under the provisions of section two hundred forty-two of the military law or section six of chapter six hundred eight of the laws of nineteen hundred fifty-two.

29-a. "Emergency service on or after October first, nineteen hundred sixty-one." Active duty (other than for training) in the armed forces of the United States as defined in title ten of the United States code on or after October first, nineteen hundred sixty-one and terminating on August thirty-first, nineteen hundred sixty-two, of any person who:

a. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state and was a resident of such other state at the time of his entrance into such armed forces, and

b. Was a member of the retirement system and an employee of the state or of a participating employer at the time he entered such armed forces or was an employee of an employer which was not a participating employer at the time he entered such armed forces but which elected to become a participating employer while he was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined in article eleven of the education law at the time of his entrance into the armed forces and became a member of the retirement system subsequent to separation or discharge from the armed services, and

c. Returned to the employment of the state or a participating employer, within one year following discharge or release, or completion of advanced education provided by the United States for education of Korean conflict veterans, certified on a certificate for service in war after world war I, and allowable as provided in section forty-one of this article. Such service shall not include any periods during which

civil compensation was received by the member for accrued vacation and overtime credit or under the provisions of section two hundred forty-two of the military law or section six of chapter six hundred eight of the laws of nineteen hundred fifty-two.

d. Credit under this section shall not accrue to a person who is released from active duty under conditions other than honorable, unless such person has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

30. "Service in war after world war I." Service in world war II, service in the Korean conflict, or emergency service on or after October first, nineteen hundred sixty-one.

31. "Service in world war II." (1) Military service during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, as a member of the armed forces of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty,

from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or of any person who:

a. (i) Has been honorably discharged or released therefrom under honorable circumstances, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and

b. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then or thereafter became an employee of a participating employer created by

and deriving its powers from an agreement between this state and any other state and was a resident of such other state at the time of his entrance into such armed forces, and

c. Was either a member of the retirement system and an employee of the state or of a participating employer at the time he entered such armed forces or became such employee and such member while in such armed forces on or before July first, nineteen hundred forty-eight, or became such employee while in such armed forces and subsequently became such member on or before July first, nineteen hundred forty-eight, or was an employee of an employer which was not a participating employer at the time he entered such armed forces but which elected to become a participating employer while he was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined in article eleven of the education law at the time of his entrance into the armed forces and became a member of the retirement system subsequent to separation or discharge from the armed services, and

d. Returned to the employment of the state or a participating employer, within one year following discharge or release or completion of advanced education provided under the servicemen's readjustment act of nineteen hundred forty-four, certified on a world war II military service certificate, and allowable as provided in section forty-one of this article. Such service shall not include any periods during which civil compensation was received by the member under the provisions of section two hundred forty-two of the military law, or section six of chapter six hundred eight of the laws of nineteen hundred fifty-two; or

(2) Military service, not in excess of three years and not otherwise creditable under paragraph one hereof, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States

Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, by a person who was a resident of New York state at the time of entry into such service and at the time of

being discharged therefrom (vii) under honorable circumstances, or (viii) with a qualifying condition, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or (ix) as a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or, if not a resident of this state at such times was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state, and was a resident of such other state at the time of entry into and discharge from such service, and who makes the payments required by subdivision k of section forty-one of this article.

However, no military service shall be creditable under this paragraph two in the case of a member under an existing plan permitting retirement upon twenty years of creditable service who is receiving a federal pension (other than for disability) based upon a minimum of twenty years of full time active military service in the armed forces of the United States nor shall any military service be creditable in the case of a member under any other plan who is receiving a military pension (other than for disability) for military service in the armed forces of the United States.

32. "Service retirement benefit." Any type of retirement benefit provided by this article and payable out of the pension reserve fund, except the ordinary disability retirement, accidental disability retirement, discontinued service retirement, ordinary death and accidental death benefit.

33. "State." The state of New York.

34. "Total service." All member service for which a member is credited, all prior service certified on a valid prior service certificate, and all service in war after world war I certified on a valid military service certificate. For the purposes of this article, a valid certificate heretofore issued for service in world war II shall be deemed a certificate for service in war after world war I.

35. "Special interest." A distribution to the annuity savings fund, in addition to regular interest, to be credited to the annuity savings accounts of members, the size of this distribution, if any, to be determined pursuant to the provisions of subdivision i of section thirteen of this article.

36. (a) "Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period, as those terms are defined below, provided the following conditions have been met: (i) such member, or eligible beneficiary in the case of the member's death, must have either filed a written and sworn statement with the member's retirement system on a form provided by such system, or as allowed by the member's retirement system, electronically submitted a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity, indicating the underlying dates and locations of employment not later than September eleventh, two thousand thirty, and (ii) such member has either successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if the member did not undergo a physical examination for entry into public service; and (iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one except for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the

city of New York or sections five hundred seven-c, six hundred five-b, six hundred five-c, or six hundred seven-b of this chapter. The deadline for filing a written and sworn statement required by subparagraph (i) of this paragraph shall be September eleventh, two thousand thirty for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the city of New York and sections five hundred seven-c, six hundred five-b, six hundred five-c, or six hundred seven-b of this chapter. Every retirement system shall keep a copy of every written and sworn statement that is presented for filing not later than September eleventh, two thousand thirty, including those that are rejected for filing as untimely.

(b) "Qualifying condition or impairment of health" shall mean a qualifying physical condition, or a qualifying psychological condition, or both, except that for any member identified in paragraph (vi) of paragraph (e) of this subdivision, it shall only mean a qualifying psychological condition.

(c) "Qualifying physical condition" shall mean one or more of the following: (i) diseases of the upper respiratory tract and mucosae, including conditions such as rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, and upper airway hyper-reactivity, or a combination of such conditions; (ii) diseases of the lower respiratory tract, including but not limited to tracheo-bronchitis, bronchitis, chronic obstructive pulmonary disease, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic; (iii) diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure; (iv) diseases of the skin such as conjunctivitis, contact dermatitis or burns, either acute or chronic in nature, infectious, irritant,

allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or (v) new onset diseases resulting from exposure as such diseases occur in the future including cancer, asbestos-related disease, heavy metal poisoning, and musculoskeletal disease.

(d) "Qualifying psychological condition" shall mean one or more of the following: (i) diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions; or (ii) new onset diseases resulting from exposure as such diseases occur in the future including chronic psychological disease.

(e) "Participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who: (i) participated in the rescue, recovery, or cleanup operations at the World Trade Center site, as defined in paragraph (f) of this subdivision; (ii) worked at the Fresh Kills Land Fill in New York; (iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan; (iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York; (v) repaired, cleaned or rehabilitated vehicles or equipment, including emergency vehicle radio equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, as defined in paragraph (f) of this subdivision, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, provided such work was performed prior to decontamination of such vehicles or equipment; or (vi) worked in the following departments, worksites and titles: (A) New York City Police Department at 11 Metrotec Center in Brooklyn or 1 Police Plaza in Manhattan as a Police Communication Technician (PCT), Supervisor Police Communication Technician (SPCT), Principal Police Communication Technician I, Principal Police Communication Technician II, Principal Police Communication Technician III, Administrative Manager - Communications, or in the Police Administrative Aide title series; (B) Fire Department of the City of New York at 35 Empire Boulevard in Brooklyn, 79th Street Transverse in Manhattan, 83-98 Woodhaven Boulevard in Queens, 1129 East 180 Street in the Bronx, 65 Slosson Avenue in Staten Island, 9 Metrotec Center in Brooklyn, or 25 Rockaway Avenue in Brooklyn as Fire Alarm

Dispatchers (FAD), Supervising Fire Alarm Dispatchers I (SFAD), Supervising Fire Alarm Dispatchers II (Borough Supervisor), Deputy Director & Director Fire Dispatch Operations, or Assistant Commissioner for Communications; (C) for the Fire Department of the City of New York's Emergency Medical Service at 1 or 9 Metrotec Centers in Brooklyn, or 55-30 58 Street in Maspeth Queens as Emergency Medical Specialist-Level I (EMT), Emergency Medical Specialist Level II-(Paramedic), Supervising Emergency Medical Specialist Level I (LT), Supervising Emergency Medical Specialist Level II (Capt), Deputy Chief EMS Communications, or Division Commander EMS Communications. For purposes of this paragraph, the term "member" shall include each person who during the qualifying period was in the employment of a public employer which then participated for such employees in a public retirement system in this state, irrespective of whether the person was a participant in such system at that time, provided that the person has become a participant in such retirement system and has purchased service credit for a period of time that includes some or all of the qualifying period in accordance with provisions of law applicable to such purchase of service credit.

(f) "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.

(g) "Qualifying period" shall mean: (i) any period of time within the forty-eight hours after the first airplane hit the towers, for any member identified in paragraphs (i) through (v) of paragraph (e) of this subdivision; (ii) a total of forty hours accumulated any time between September eleventh, two thousand one and September twelfth, two thousand two, for any member identified in subparagraphs (i) through (v) of paragraph (e) of this subdivision; or (iii) any period of time within the twenty-four hours after the first airplane hit the towers, for any member identified in subparagraph (vi) of paragraph (e) of this subdivision.

TITLE 2

ESTABLISHMENT, MANAGEMENT, SUPERVISION AND FINANCING

- Section 10. The retirement system continued; a corporation.
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 - 17-a. Amortization of amounts outstanding.
 - 17-b. Amortization of a portion of the bills for participating employers for the two thousand four--two thousand five fiscal year.
 - 17-c. Amortization of a portion of the bills for participating employers for the two thousand five--two thousand six fiscal year.
 - 17-d. Amortization of a portion of the bills for participating employers for the two thousand six--two thousand seven fiscal year.
 - 18. Guaranty.
 - 19. Filing of documents with the retirement system.
 - 19-a. Employer contributions for the two thousand ten - two thousand eleven fiscal year and subsequent fiscal years.

§ 10. The retirement system continued; a corporation. The retirement system, as established by chapter seven hundred forty-one of the laws of nineteen hundred twenty, as amended, is hereby continued. Such system shall continue to have the powers and privileges of a corporation and shall be known as the "New York State and local Employees' Retirement

System." All of the business of the retirement system shall be transacted, all of its funds invested and payments made, and all of its cash, securities and other properties shall be held in such name, except as provided in article nine of this chapter.

Reference in this chapter or in any other law to the New York state employees' retirement system shall be deemed to mean and refer to the New York state and local employees' retirement system.

§ 11. Duties of comptroller; the actuary. a. The comptroller shall be the administrative head of the retirement system. Subject to the limitations of this article and of law, he shall adopt and may amend, from time to time, rules and regulations for the administration and transaction of the business of the retirement system and for the custody and control of its funds. The comptroller shall:

1. Maintain all necessary accounting records, and
2. Keep in convenient form such data as shall be necessary for the actuarial valuation of the various funds of the retirement system, and
3. Establish funds, in addition to those provided for by this article, which in his judgment are necessary or required for the proper fiscal management of the retirement system, and
4. Perform such other functions as are required for the execution of the provisions of this article.

b. The comptroller shall engage the services of an actuary and may employ such other necessary technical and administrative assistance as he may require. For the purpose of determining upon the proper tables to be prepared and submitted to the comptroller for adoption, the actuary, from time to time, but at least once in each five years, shall make such investigation of the mortality, service and compensation experience of the members as the comptroller may authorize. On the basis of such investigations and upon the recommendation of the actuary, the

comptroller shall:

1. Adopt for the retirement system such mortality and other tables as shall be deemed necessary, and

2. Certify the rates of deduction, if any, from compensation computed to be necessary to pay the annuities authorized under the provisions of this article.

3. From time to time, but at least once in each five years, promulgate a rate or rates of estimated future investment earnings.

4. From time to time, but at least once in every five years, promulgate a rate or rates of regular interest.

c. On the basis of such aforesaid tables and an estimated rate or rates of future investment earnings as the comptroller shall adopt:

1. The actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement system, and

2. The comptroller shall certify annually the rates expressed as proportions of payroll of members, which shall be used in computing the contributions required to be made by employers to the pension accumulation fund.

d. The comptroller shall make an annual report showing the valuation of the assets and liabilities of the funds of the retirement system, as certified by the actuary, a statement of receipts and disbursements and his or her recommendations in regard thereto. Such report shall be published with and as a part of the annual report of the comptroller. In addition to the above annual report, an actuarial report prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with principles prescribed by the Actuarial Standards Boards (ASB) and the Code of Professional Conduct and Qualification Standards for Public Statements of Actuarial Opinion of the American Academy of Actuaries, shall be published on or before

October fifteenth of each fiscal year to include:

1. The following membership distributions for the Employee's Retirement System (ERS) and Police and Fire Retirement Systems (PFRS), separately for the following categories: the state, cities, counties, towns, villages, school districts, and miscellaneous.

(i) For active members, five year age/service groups in matrix form showing numbers of members and average compensation.

(ii) For retired members, five year age/service at retirement groups in matrix form showing number of members, average final average salary, and average annual pension.

(iii) For active members, number of members and total salary by tier.

2. For inactive employees, five year age/service groups in matrix form showing number of members and average last compensation.

3. Any other information needed to fully and fairly disclose the actuarial position of the plan.

4. A reconciliation to the prior year of the number of all members (active, inactive and retired), broken down by ERS and PFRS.

e. Special interest, if any, shall be credited annually in the same manner as regular interest pursuant to subdivision i of section thirteen of this article to the individual annuity savings accounts of persons who are members as of the close of the fiscal year.

f. The records of the retirement system shall be open to public inspection.

g. The comptroller shall adopt and amend pursuant to this article only such rules and regulations as he determines to be for the best interests of the retirement system and its members.

§ 12. Classification of members. a. It shall be the duty of the head of each department of the state government, and of the chief fiscal

officer of each participating employer, at the request of the comptroller, to submit to him a statement showing the name, title, compensation, duties, date of birth and length of government service of each member and such other information as the comptroller may require. If any such member be principally engaged upon duties differing from those specified by the appropriate civil service commission for the title held by him, such head of department, or chief fiscal officer, shall certify the reasons therefor and the probable duration of the duties being so performed by such member.

b. Each member shall be subject to all the provisions of this article and to all the rules and regulations adopted by the comptroller pursuant to this article.

§ 13. Management of funds. a. The funds of the retirement system shall be managed in accordance with this section.

b. The comptroller shall be trustee of the several funds of the retirement system. Such funds shall be invested by the comptroller in securities in which he is authorized by law to invest the funds of the state, except that he may invest in obligations consisting of notes, bonds, debentures, or equipment trust certificates issued under an indenture, which are the direct obligations of, or in the case of equipment trust certificates are secured by direct obligations of, a railroad or industrial corporation, or a corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity or gas, or the operation of telephone or telegraph systems or waterworks, or in some combination of them; provided the obligor corporation is one which is incorporated under the laws of the United States, or any state thereof, or of the District of Columbia, and said obligations shall be rated at the time of purchase within the three highest classifications established by at least two standard rating services. The maximum amount that the comptroller may invest in such obligations shall not exceed thirty per centum of the assets of the New York state employees' retirement system's funds; and provided further that not more than two and one half per centum of the assets of the New

York state employees' retirement system's funds shall be invested in the obligations of any one corporation of the highest classification and subsidiary or subsidiaries thereof, that not more than two per centum of the assets of the New York state employees' retirement system's funds shall be invested in the obligations of any one corporation of the second highest classification and subsidiary or subsidiaries thereof, that not more than one and one half per centum of the assets of the New York state employees' retirement system's funds shall be invested in the obligations of any one corporation of the third highest classification and subsidiary or subsidiaries thereof. He shall, however, be subject to all terms, conditions, limitations and restrictions imposed by this article and by law upon the making of such investments. The comptroller shall have full power:

1. To hold, purchase, sell, assign, transfer or dispose of any of the securities or investments, in which any of the funds of the retirement system shall be invested, including the proceeds of such investments and any monies belonging to such funds, and

2. In his name as trustee, to foreclose mortgages upon default or to take title to real property in such proceedings in lieu thereof and to lease and sell real property so acquired.

- c. The comptroller annually shall credit to each of the funds of the retirement system regular interest on the mean amount therein for the preceding year.

- d. The custody of all funds of the retirement system shall be in the charge of the head of the division of the treasury of the department of taxation and finance, subject to the supervision and control of the commissioner of taxation and finance.

- e. Payment of all pensions, annuities and other benefits shall be made as provided in this article. For the purpose of meeting disbursements for pensions, annuities and other payments ordered by the comptroller, the head of such division may keep on deposit an available fund which shall not exceed ten per centum of the total amount of the several funds

of the retirement system. Every such deposit shall be kept only in a bank or trust company organized under the laws of this state, or in a national bank located in this state, which shall furnish adequate security therefor.

f. The comptroller, however, shall have a fund in his immediate possession. Such fund shall be used for the immediate payment of:

1. All pensions, annuities and other benefits, and
2. Such expenses as may necessarily be incurred in acquiring, servicing and foreclosing mortgages and in acquiring, managing and protecting investments, and
3. Such special expenditures for which the retirement system will be paid by the state or a participating employer.

Such fund shall be reimbursed from time to time by the head of such division on the warrant of the comptroller.

g. Neither the comptroller nor any person employed on the work of the retirement system shall:

1. Except as herein provided, have any interest, direct or indirect, in the gains or profits of any investment of the retirement system, nor, in connection therewith, directly or indirectly, receive any pay or emolument for his services.

2. Except as provided in section fifty of this article:

- (a) Directly or indirectly, for himself or as an agent or partner of others, borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the comptroller, or

- (b) Become an endorser, surety or an obligor in any manner of monies loaned by or borrowed of such funds.

h. The retirement system may use a part of its funds, not exceeding

ten per centum of its assets, (1) for purchasing or leasing of land in the city of Albany and the construction thereon of a suitable office building or buildings for the transaction of the business of the retirement system and (2) for purchasing or leasing of land in the cities of Albany, Syracuse, Buffalo, Binghamton, New York, Rochester and Utica and the construction thereon of a suitable office building or buildings for purposes of lease or sale to the state and (3) for purchasing or leasing of land in the city of Albany on the north and south sides of Washington avenue commonly known as the "Campus Site" acquired by the state for a state buildings site pursuant to the provisions of chapter five hundred seventy-two of the laws of nineteen hundred forty-seven and the construction thereon of power plants including service connections, electric substations including service connections, garages, warehouses and restaurant facilities deemed necessary for the efficient and economical operation of the office building or buildings constructed on such land and (4) for purchasing or leasing of land in the city of Albany acquired by the state for suitable parking facilities for the use primarily of employees of the state and persons having business with state departments and state agencies and the construction thereon of such structures, appurtenances and facilities deemed necessary for the efficient and economical operation of the parking facilities constructed on such land and (5) for purchasing or leasing of land in locations approved by the state university trustees and the construction, acquisition, reconstruction, rehabilitation or improvement of suitable buildings or facilities thereon for purposes of lease or sale to the state university construction fund, such buildings or facilities to be used by the state university or by state-operated institutions or statutory or contract colleges under the jurisdiction of the state university or by the students, faculty and staff of the state university or of any such state-operated institution or statutory or contract college, and their families and (6) for purchasing of lands from the New York state thruway authority and the construction thereon of an office building or other buildings for purposes of lease or sale to the thruway authority for its own use under such terms and conditions, including consideration and length of term, as shall be agreed upon between the retirement system and the thruway authority.

The retirement system from time to time may lease to any public agency any portion of a building constructed for the transaction of its business which may not be required for such purpose, upon such terms and conditions as shall be deemed to be for the best interest of the retirement system.

Real property of the retirement system acquired or constructed pursuant to this subdivision shall be exempt from taxation.

i. At the close of each fiscal year, the average rate of investment earnings of the retirement system shall be computed by the actuary and certified to the comptroller. This rate shall be determined from the investment earnings during the calendar year which ended three months prior to the close of the fiscal year. For any year that such average rate of earnings is in excess of three per centum but not in excess of four per centum, the comptroller shall declare a rate of special interest, for members earning regular interest of three per centum, equal to the difference between such average rate of earnings and three per centum expressed to the lower one-tenth of one per centum, but not in excess of one per centum. For any year, commencing with the fiscal year the first day of which is April first, nineteen hundred seventy, that such average rate of earnings is in excess of four per centum, the special rate of interest for members earning regular interest of three per centum shall be equal to the difference between such average rate of earnings and three per centum expressed to the lower one-tenth of one per centum, but not in excess of two per centum, and for members earning regular interest of four per centum, it shall be the difference between such average rate of earnings and four per centum, expressed to the lower one-tenth of one per centum, but not in excess of one per centum. Special interest at such rates, shall be credited by the comptroller at the same time that regular interest is credited, to the individual annuity savings accounts of persons who are members as of the close of the fiscal year. Special interest shall not be considered in determining rates of contribution of members. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to the fiscal years

beginning April first, nineteen hundred seventy-two and ending March thirty-first, nineteen hundred seventy-three.

j. The retirement system may invest, within the limitations authorized for investments in conventional mortgages, a part of its funds in first mortgages on real property located anywhere within the boundaries of the United States and leased to the government of the United States, provided however, that no such investment shall be made unless the terms of the mortgage shall provide for amortization payments in an amount sufficient to completely amortize the loan within the period of the lease.

k. The funds of the retirement system may be invested in the purchase of promissory notes or bonds from the farmers home administration issued in connection with the purchase or improvement of real property and which are insured by the farmers home administration.

§ 14. Legal adviser. The attorney-general of the state shall be the legal adviser of the retirement system.

§ 15. State supervision. The retirement system continued by this article shall be subject to the supervision of the superintendent of financial services. Such supervision shall be in accordance with the provisions of the insurance law to the extent that such provisions are applicable to the retirement system and are not inconsistent with the provisions of this article.

§ 16. Annual appropriation by state. a. Upon the basis of each annual actuarial valuation and appraisal provided for in this article, the comptroller, on or before the fifteenth day of October of each year, shall prepare and file with the director of the budget and the chairperson of the senate finance committee and the assembly ways and means committee an itemized estimate of the amounts necessary to be appropriated by the state to the pension accumulation fund and the New

York state public employees group life insurance plan for the next fiscal year and an estimate of the payments required for the current fiscal year. Such amounts shall be sufficient to provide for payment in full for (i) the estimated obligations of the state to the retirement system for such respective fiscal years; and (ii) any actual obligations of the state to the retirement system remaining unpaid from the prior fiscal year, plus interest on such amount to be paid in the next fiscal year. If, the state overpaid its actual obligation to the retirement system for the prior fiscal year, the amount estimated in the filing required by this subdivision for the next fiscal year shall reflect the amount of such overpayment, plus interest on such amount, as a reduction in amounts that would otherwise be estimated to be due the retirement system from the state. The amount appropriated or so much thereof as may be required shall be paid from the state treasury on warrant of the comptroller into the pension accumulation fund and the New York state public employees group life insurance plan, as appropriate, on or before March first of each state fiscal year. The amount paid shall be based on an estimate provided by the comptroller which shall reflect the most recent data on annual salary and other related components, and be calculated in accordance with pension benefits authorized as of that time. Such estimate shall be provided by the comptroller within fifteen days of a request by the director of the budget. For the purposes of this section, "interest" shall mean the rate or rates of interest used in the actuarial valuations covering the period of time over which such interest is computed.

b. On or before the fifteenth day of October of each year the comptroller shall file with the director of the budget and the chairperson of the senate finance committee and the assembly ways and means committee an itemized estimate of the expenses of the retirement system for the ensuing year. The director of the budget may revise and amend such estimate. After such revision and amendment, if any, such director shall approve the same for inclusion in the executive budget. No monies shall be paid out of the pension accumulation fund for such expenses unless expenditures therefor shall have been authorized by law.

c. Whenever the compensation of any member of the retirement system is

paid from a special or administrative fund provided for by law, all contributions to the retirement system including a proportionate share of the administrative expense thereof, which otherwise would be chargeable to the general fund of the state, shall, with the approval of the director of the budget, be paid from such special or administrative fund.

d. Such estimated amounts provided in subdivision a of this section shall be revised to reflect updated information, including trends in salary growth and investment earnings through November thirtieth of the current fiscal year and resubmitted to the director of the budget and the chairperson of the senate finance committee and the assembly ways and means committee on or before December fifteenth of the current fiscal year. A revised actuarial estimate, including an explanation of any changes from the estimates submitted on October fifteenth of the current fiscal year, shall also accompany such resubmission.

e. By February seventh of the current fiscal year, the comptroller shall notify the director of the budget and the chairperson of the senate finance committee and the assembly ways and means committee of his or her revised estimate of the state's contribution to the pension accumulation fund and the New York state public employees group life insurance plan for the current and next fiscal years based on updated information through January thirty-first of the current fiscal year. Such notification shall be accompanied by a revised actuarial estimate, including an explanation of any changes from the estimate submitted on December fifteenth of the current fiscal year.

f. After reviewing the estimates and submissions for the next fiscal year, the director of the budget, after consultation with the comptroller's office, shall include the necessary item of appropriation for the next fiscal year payment in the next annual appropriation bill presented to the legislature. Such consultation shall include discussions regarding the reasons and assumptions used for any potential adjustments to prior estimates and submissions and, to the extent feasible or appropriate, reflect actual calculations provided by the comptroller's office. The director of the budget shall also include in

such appropriation bill, if necessary, an appropriation equal to the amount of unpaid obligations of the state to the retirement system for the prior fiscal year.

g. Such estimates provided in subdivisions a, d and e of this section shall be accompanied by an actuarial report stating the assumptions used in calculating each of the estimates, including but not limited to:

1. projected growth in the billable salary base from the prior fiscal year, in total and by tier for the state and local governments for each retirement system;

2. composition of the portfolio;

3. return on common stock investments, expressed as a percentage;

4. calculation of the actuarial value of common stock;

5. return on investments other than common stock, expressed as a percentage; and

6. itemization of the change from the state's prior year contribution, either actual or estimated, due to legislative changes in benefits, tier shift, salary base growth, investment return, and any other factors deemed appropriate for explaining such change.

h. In addition to the above mentioned reporting requirements, the actuarial report shall also include the following information for each retirement system for the current fiscal year and estimated amounts for the next fiscal year:

1. the post-retirement supplemental payments and a description of the handling of such amounts in the valuation;

2. the group life insurance plan (GLIP) costs and assets allocated to GLIP;

3. the administrative expenses and a description of the handling of such amount in the valuation;

4. the market value and actuarial asset value of equities;

5. a state reconciliation of the amounts paid and the final amounts for the two prior fiscal years.

§ 16-a. Amortization of amounts outstanding. a. On or before September first, nineteen hundred eighty-six, on the basis of the annual actuarial valuation and appraisal procedure provided for in this article, the comptroller shall determine the annual amounts that, had this section not been enacted, would have been required to be paid into the pension accumulation fund and the New York state public employees group life insurance plan, as appropriate, from the general fund of the state for all obligations of the state to the retirement system not discharged prior to such date, for state fiscal years ending March thirty-first, nineteen hundred eighty-five and March thirty-first, nineteen hundred eighty-six and amounts for the state's contribution for the retirement incentive program that would, had this section not been enacted, be due to be paid into the pension accumulation fund during fiscal years ending March thirty-first, nineteen hundred eighty-seven and March thirty-first, nineteen hundred eighty-eight. Such amounts shall include interest, as defined in section sixteen of this article through the last day of February, nineteen hundred eighty-seven. The sum of such amounts shall be called the "amount to be amortized".

b. The amount to be amortized shall be paid into the pension accumulation fund and the New York state public employees group life insurance plan, as appropriate, according to a schedule of equal annual installments during any years remaining in the amortization period. The "amortization period" shall be seventeen years. The first payment shall be made March first, nineteen hundred eighty-seven.

c. The amount of the annual payment to be made in any subsequent fiscal year shall be the amount that would be required to pay in full,

in equal annual installments over the remainder of the amortization period, any unpaid balance of the amount to be amortized and interest on such unpaid balance computed at eight percent per annum.

d. On or before October fifteenth of nineteen hundred eighty-six and each succeeding year during the amortization period, the comptroller shall file with the director of the budget an estimate of the amount of the annual payment required to be made pursuant to this section in the state fiscal year beginning the first day of April next succeeding such October fifteenth.

e. An item of appropriation sufficient to provide for such payment shall be included in the next annual budget bill for the support of government presented to the legislature for passage. The amounts so appropriated shall be paid from the general fund of the state upon warrant of the comptroller on March first of each state fiscal year during the amortization period.

§ 16-b. Notice of change. (1) The comptroller, on or before the fifteenth day of October of each year, shall submit to the director of the division of the budget and the chairmen of the senate finance committee and the assembly ways and means committee written notice of any proposed material change in the annual actuarial valuation provided for in this article or any other material change, other than those provided by legislation or resolution, affecting the state's or any other participating employer's estimated or actual obligations to the pension accumulation fund and the New York state public employees group life insurance plan for the succeeding fiscal year.

(2) Notwithstanding any provision of law to the contrary, for fiscal years commencing April first, nineteen hundred eighty-eight, April first, nineteen hundred eighty-nine and April first, nineteen hundred ninety the actuarial value of assets shall be calculated using the five year smoothing method that was used for the fiscal year commencing April first, nineteen hundred eighty-seven which method has been determined to be actuarially sound.

§ 16-c. Amortization of a portion of the state's contribution bill for fiscal year ending March thirty-first, two thousand five. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions, then, on or before October fifteenth, two thousand three on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that the state is permitted to pay on an amortized basis) required to be paid pursuant to section twenty-three-a of this article for the fiscal year ending March thirty-first, two thousand five. The amount by which the contribution amount with respect to the fiscal year ending March thirty-first, two thousand five exceeds seven percent of the estimated pensionable salary base for fiscal year ending March thirty-first, two thousand five shall be the "amount eligible for amortization." The "amount eligible for amortization" may be amortized over a ten-year period at eight percent interest per annum with the first of ten equal payments payable during fiscal year ending March thirty-first, two thousand six, provided, however, that on or before September first, two thousand four, the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. The state may, in lieu of paying its bill for fiscal year ending March thirty-first, two thousand five, pay a lesser amount during fiscal year ending March thirty-first, two thousand five which shall be the entire bill for the fiscal year ending on March thirty-first, two thousand five, calculated pursuant to section twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization".

b-1. If the state makes the payment provided for in subdivision b of this section, the state shall pay during the fiscal year ending March

thirty-first, two thousand six an amount determined by the comptroller by adding the following two amounts together:

(1) the state's entire bill for the fiscal year ending March thirty-first, two thousand six, calculated pursuant to section twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to section sixteen-d of this article, if applicable; and

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to this section.

c. The remaining amortized payments shall be due and payable each subsequent fiscal year during the amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization," subject to the following:

(1) on or before August first, two thousand four, in addition to advising with respect to the amount due for the current year billing, the comptroller shall advise the state of the total amount due and be authorized to accept pre-payment in full of said amount for fiscal year ending March thirty-first, two thousand five.

(2) on or before each subsequent August first during the amortization period, in addition to the amount due for the current year billing and for the payment of the annual amortized installment, the comptroller shall advise the state of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid for that fiscal year.

§ 16-d. Amortization of a portion of the state's contribution bill for fiscal year ending March thirty-first, two thousand six. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions pursuant to this section, then, on the basis of the annual actuarial valuation made as of April first, two thousand four as provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations

that the state is permitted to pay on an amortized basis) required to be paid pursuant to section twenty-three-a of this article for the fiscal year ending March thirty-first, two thousand six. The amount by which the contribution amount with respect to the fiscal year ending March thirty-first, two thousand six exceeds nine and one-half percent of the estimated pensionable salary base for the fiscal year ending March thirty-first, two thousand six shall be the "amount eligible for amortization." The "amount eligible for amortization" may be amortized over a ten-year period at eight percent interest per annum, with the first of ten equal payments payable during the fiscal year ending March thirty-first, two thousand seven, provided, however, that on or before September first, two thousand five, the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the unpaid balance of the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. The state may, in lieu of paying its bill for fiscal year ending March thirty-first, two thousand six, pay a lesser amount during the fiscal year ending March thirty-first, two thousand six which shall be determined by the comptroller by adding the following two amounts together:

(1) the entire bill for the fiscal year ending on March thirty-first, two thousand six, calculated pursuant to section twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization" determined pursuant to subdivision a of this section, and

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section sixteen-c of this article, if applicable.

c. If the state makes the payment provided for in subdivision b of this section, the state shall pay during the fiscal year ending March thirty-first, two thousand seven an amount determined by the comptroller by adding the following three amounts together:

(1) the state's entire bill for the fiscal year ending March

thirty-first, two thousand seven, calculated pursuant to section twenty-three-a of this article (without reference to this section),

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of this section, and

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section sixteen-c of this title, if applicable.

d. The remaining amortized payments determined pursuant to section sixteen-c of this title and pursuant to this section shall be due and payable each subsequent fiscal year during the applicable amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization," determined pursuant to both such sections subject to the following:

(1) on or before August first, two thousand five, in addition to advising with respect to the amount due for the current year billing and for the payment of the amortized annual installments determined pursuant to section sixteen-c of this title and pursuant to this section, the comptroller shall advise the state of the total amount due and be authorized to accept pre-payment in full of said amount for fiscal year ending March thirty-first, two thousand six.

(2) on or before each subsequent August first during the amortization periods, in addition to the amount due for the current year billing and for the payment of the annual amortized installments, the comptroller shall advise the state of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid for that fiscal year.

§ 17. Annual appropriation by participating employers. a. On or before the fifteenth day of November, nineteen hundred eighty-nine and of each succeeding calendar year, the comptroller shall determine the amount which each participating employer is required to pay to the retirement system to discharge its obligations thereto for the fiscal year of the retirement system which ends on March thirty-first of nineteen hundred ninety and of each succeeding calendar year on account of its employees

who are members of this system. The comptroller shall submit to the fiscal officer of each such employer a statement of the amount so payable.

This amount shall consist of the amount deemed necessary to provide for payment in full of (i) all estimated obligations of each participating employer for the current fiscal year of the retirement systems and (ii) any additional obligation, plus interest on such amount, for fiscal years preceding the current fiscal year. If as a result of the amount determined to be paid for any fiscal year, a participating employer overpaid its actual obligation to the retirement system for that year, the amount to be determined by the comptroller for the next succeeding November fifteenth shall reflect the amount of the overpayment, plus interest as defined in section sixteen of this article on such amount, as a reduction in the amount otherwise required to be paid by such participating employer.

b. Each participating employer annually shall appropriate a sum sufficient to pay such amount. In the event the comptroller's statement is not received before annual appropriations are made by such employer, a sum estimated by the comptroller to be sufficient for such purpose shall be included with such annual appropriations.

c. Payment of the amount specified in the comptroller's statement shall be made by a participating employer within seventy-eight days after the receipt of such statement; provided, however, that in no case shall any participating employer be required to make this payment before February first of the calendar year next succeeding the calendar year in which such statement is received. The comptroller is authorized to provide for and accept pre-payment.

d. If payment of the full amount of such obligations is not made by the date required by subdivision c of this section, interest at a rate determined in accordance with the provisions of section sixteen of this article shall commence to run against the unpaid balance thereof on the first day after the date required by said subdivision c.

e. The comptroller shall have full power and authority to bring suit in the supreme court against any participating employer to recover any sum, payment of which is not made as herein required. While any such sum shall remain due and unpaid he may refuse to audit any claim for funds due to such employer from the state.

§ 17-a. Amortization of amounts outstanding. a. On or before September first, nineteen hundred eighty-nine, on the basis of the annual actuarial valuation and appraisal procedure provided for in this article, the comptroller shall determine the annual amounts that, had this section not been enacted, would have been required to be paid into the pension accumulation fund and the New York state public employees' group life insurance plan, as appropriate, from each participating employer for all obligations, including unpaid amounts for the retirement incentive program and payments for any other benefit funded on other than an annual basis, of each participating employer to the retirement system not discharged prior to such date, for fiscal years ending March thirty-first, nineteen hundred eighty-eight and March thirty-first, nineteen hundred eighty-nine. Such amounts shall include interest, as defined in section sixteen of this article, through the fifteenth day of December, nineteen hundred eighty-nine. The sum of such amounts shall be called the "amount to be amortized".

b. The amount to be amortized shall be paid into the pension accumulation fund and the New York state public employees' group life insurance plan, as appropriate, according to a schedule of equal annual installments during any years remaining in the amortization period. The "amortization period" shall be seventeen years. The first payment shall be payable by December fifteenth, nineteen hundred eighty-nine.

c. The amount of the annual payment to be made in any subsequent fiscal year shall be the amount that would be required to pay in full, in equal annual installments over the remainder of the amortization period, any unpaid balance of the amount to be amortized and interest on such unpaid balance computed at eight and three-quarters percent per annum.

d. An amount sufficient to provide for such payment shall be included in the next annual budget for each participating employer. The amounts due shall be payable on December fifteenth of each year during the amortization period.

e. The state comptroller is directed to promulgate regulations to permit the pre-payment of the amounts outstanding. Such regulation shall provide that:

(1) On or before November fifteenth, nineteen hundred eighty-nine in addition to the amount due for the current year billing and for the payment of the amortized annual installment, the comptroller shall furnish the total amount due and be authorized to accept pre-payment in full of said amount by December fifteenth, nineteen hundred eighty-nine.

(2) On or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installment, the comptroller shall furnish the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by December fifteenth of that year.

§ 17-b. Amortization of a portion of the bills for participating employers for the two thousand four--two thousand five fiscal year. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions, then, on or about October fifteenth, two thousand three, on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that a participating employer is permitted to pay on an amortized basis) of the annual contribution for a participating employer pursuant to section twenty-three-a of this article due for the fiscal year ending March thirty-first, two thousand five, calculated as of December fifteenth, two thousand four. The amount by which such contribution exceeds seven percent of the estimated pensionable salary base for the fiscal year ending March thirty-first, two thousand five

shall be the "amount eligible for amortization". An amount up to the "amount eligible for amortization" may be amortized over a ten-year period at eight percent interest per annum, with the first of ten equal payments payable on February first, two thousand six provided, however, that on or before September first, two thousand four, the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. A participating employer, may, in lieu of paying its entire February first, two thousand five bill, pay a lesser amount on February first, two thousand five which shall be the entire February first, two thousand five bill, calculated pursuant to section twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization".

b-1. A participating employer making a payment pursuant to subdivision b of this section shall pay on February first, two thousand six an amount determined by the comptroller by adding the following two amounts together:

(1) the entire February first, two thousand six bill, calculated pursuant to section twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to section seventeen-c of this article, if applicable; and

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to this section.

c. The remaining amortized payments shall be due and payable on February first of each year during the amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization," subject to the following:

(1) on or before November fifteenth, two thousand four in addition to the amount due for the current year billing, the comptroller shall advise the participating employer of the total amount due and be

authorized to accept pre-payment in full of said amount by February first, two thousand five.

(2) on or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installment, the comptroller shall advise the participating employer of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by February first of the succeeding year.

§ 17-c. Amortization of a portion of the bills for participating employers for the two thousand five--two thousand six fiscal year. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions pursuant to this section, then, on or about October fifteenth, two thousand four, on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that a participating employer is permitted to pay on an amortized basis) of the annual contribution for a participating employer pursuant to section twenty-three-a of this article due for the fiscal year ending March thirty-first, two thousand six. The amount by which such contribution exceeds nine and one-half percent of the estimated pensionable salary base for the fiscal year ending March thirty-first, two thousand six shall be the "amount eligible for amortization". An amount up to the "amount eligible for amortization" may be amortized over a ten-year period at eight percent interest per annum, with the first of ten equal payments payable on February first, two thousand seven, provided, however, that on or before September first, two thousand five, the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. A participating employer, may, in lieu of paying its entire

February first, two thousand six bill, pay a lesser amount on February first, two thousand six which shall be determined by the comptroller by adding the following two amounts together:

(1) the entire February first, two thousand six bill, calculated pursuant to section twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization" determined pursuant to subdivision a of this section; and

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section seventeen-b of this article, if applicable.

c. A participating employer making a payment pursuant to subdivision b of this section shall pay on February first, two thousand seven an amount determined by the comptroller by adding the following three amounts together:

(1) the entire February first, two thousand seven bill, calculated pursuant to section twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to section seventeen-d of this article, if applicable;

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of this section; and

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section seventeen-b of this article, if applicable.

d. Amortized payments determined pursuant to section seventeen-b and pursuant to this section shall be due and payable on February first of each year during the applicable amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization" determined pursuant to both such sections subject to the following:

(1) on or before November fifteenth, two thousand six in addition to the amount due for the current year billing and for the payment of the amortized annual installment determined pursuant to section seventeen-b and pursuant to this section, the comptroller shall advise the participating employer of the total amount due and be authorized to accept pre-payment in full of said amount by February first, two

thousand seven.

(2) on or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installments, the comptroller shall advise the participating employer of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by February first of the succeeding year.

§ 17-d. Amortization of a portion of the bills for participating employers for the two thousand six--two thousand seven fiscal year. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions pursuant to this section, then, on or about October fifteenth, two thousand five, on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that a participating employer is permitted to pay on an amortized basis) of the annual contribution for a participating employer pursuant to section twenty-three-a of this article due for the fiscal year ending March thirty-first, two thousand seven. The amount by which such contribution exceeds ten and one-half percent of the estimated pensionable salary base for the fiscal year ending March thirty-first, two thousand seven shall be the "amount eligible for amortization". An amount up to the "amount eligible for amortization" may be amortized over a ten-year period at eight percent interest per annum, with the first of ten equal payments payable on February first, two thousand eight, provided, however, that on or before September first, two thousand six, the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. A participating employer, may, in lieu of paying its entire February first, two thousand seven bill, pay a lesser amount on February

first, two thousand seven which shall be determined by the comptroller by adding the following three amounts together:

(1) the entire February first, two thousand seven bill, calculated pursuant to section twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization" determined pursuant to subdivision a of this section;

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section seventeen-c of this article, if applicable; and

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section seventeen-b of this article, if applicable.

c. A participating employer making a payment pursuant to subdivision b of this section shall pay on February first, two thousand eight an amount determined by the comptroller by adding the following four amounts together:

(1) the entire February first, two thousand eight bill, calculated pursuant to section twenty-three-a of this article (without reference to this section);

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of this section;

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section seventeen-c of this article, if applicable; and

(4) the third annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section seventeen-b of this article, if applicable.

d. Amortized payments determined pursuant to sections seventeen-b, seventeen-c and pursuant to this section shall be due and payable on February first of each year during the applicable amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization" determined pursuant to all such sections subject to the following:

(1) on or before November fifteenth, two thousand seven in addition to the amount due for the current year billing and for the payment of the

amortized annual installment determined pursuant to section seventeen-b, seventeen-c and pursuant to this section, the comptroller shall advise the participating employer of the total amount due and be authorized to accept pre-payment in full of said amount by February first, two thousand eight.

(2) on or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installments, the comptroller shall advise the participating employer of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by February first of the succeeding year.

§ 18. Guaranty. a. The latest employers of the different members shall be obligated for:

1. Regular interest charges payable, and special interest, if any, and
2. The creation and maintenance of reserves in the pension accumulation fund, and
3. The maintenance of annuity reserves and pension reserves, and
4. The payment of all pensions, annuities, retirement allowances, refunds and any other benefits, and
5. The expenses of the retirement system,
as provided for or granted under the provisions of this article. In the case of employer contributions required to be made for prior service allowed pursuant to paragraph three of subdivision b of section forty-one of this article, the provisions of such paragraph three shall govern.

b. Except as otherwise provided pursuant to this article, all income, interest and dividends derived from deposits and investments authorized by this article shall be used for the payment of such obligations.

§ 19. Filing of documents with the retirement system. Whenever a statute requires that a document be filed with the state comptroller, as administrative head of the New York state employees' retirement system, within a prescribed period of time or by a specified date, and such document has been mailed to the comptroller or the retirement system by United States Postal Service certified mail, return receipt requested, the document shall be deemed filed on the date of mailing. Notwithstanding this provision, no document shall be deemed filed on the date of mailing unless it is actually received by the retirement system as a result of such mailing.

§ 19-a. Employer contributions for the two thousand ten - two thousand eleven fiscal year and subsequent fiscal years. a. In addition to the definitions in section two of this article, when used in this section:

(1) "Amortizing employer" shall mean an employer that elects to amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand ten - two thousand eleven fiscal year, or any subsequent fiscal year, pursuant to the system graded contribution rate regardless of whether the employer has subsequently paid in full all such amortized amounts, and that does not elect to amortize as an alternative amortizing employer for the two thousand thirteen - two thousand fourteen fiscal year.

(1-a) "Alternative amortizing employer" shall mean a county, city, town, village, school district, board of cooperative educational services, or public benefit corporation that operates a public general hospital located in the county of Westchester, the county of Erie, or the county of Nassau that, on a form prepared by the comptroller, elects to and does amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand thirteen - two thousand fourteen fiscal year pursuant to the alternative system graded contribution rate, regardless of whether the employer has subsequently paid in full all such amortized amounts.

(2) "Amount eligible for amortization" for a given fiscal year shall mean the amount by which an employer's actuarial contribution for such fiscal year exceeds the employer's graded contribution for the same

fiscal year, less any amount from the employer contribution reserve fund applied to reduce the employer's payment to the retirement system for the fiscal year, provided, however, that if the employer's average actuarial contribution rate for the fiscal year is less than nine and one-half percent, then the amount eligible for amortization shall be zero.

(3) "Employer's actuarial contribution" for a given fiscal year shall mean an employer's annual bill for such fiscal year exclusive of deficiency contributions and payments on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(4) "Employer's annual bill" shall mean for a given fiscal year the sum of the following amounts: (i) an employer's normal contributions for the fiscal year determined in accordance with paragraph one of subdivision b of section twenty-three of this article and the comprehensive structural reform program implemented pursuant to subdivision b of section twenty-three-a of this article, including the provisions of subdivision b of section twenty-three-a of this article relating to the required minimum annual contribution of four and one-half percent of pensionable salaries; (ii) the employer's deficiency contributions and administration contributions for the fiscal year determined in accordance with paragraphs two and three of subdivision b of section twenty-three of this article; and (iii) any payments by the employer due in the fiscal year on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(5) "Employer's average actuarial contribution rate" for a given fiscal year shall mean an employer's actuarial contribution for such fiscal year divided by the employer's payroll for the previous fiscal year.

(6) "Employer contribution reserve fund" or "fund" shall mean the employer contribution reserve fund established pursuant to subdivision e of this section.

(7) "Employer's graded contribution" for a given fiscal year shall mean the amount determined by applying the employer's graded contribution rate or the alternative system graded contribution rate for such fiscal year to an employer's payroll for the previous fiscal year.

(8) "Employer's graded payment" for a given fiscal year shall mean the amount by which an employer's graded contribution for such fiscal year exceeds the employer's actuarial contribution for the same fiscal year.

(9) "Prior amortization" shall mean with respect to a given fiscal year any payment due in such fiscal year on account of an obligation from a prior fiscal year that an employer is permitted to pay to the retirement system on an amortized basis.

(10) "System average actuarial contribution rate" for a given fiscal year shall mean the sum of all employers' actuarial contributions for such fiscal year divided by the sum of all employers' payroll for the previous fiscal year.

(11) "System graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to subdivision c of this section.

(12) "Alternative system graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to subdivision c-1 of this section.

(13) "Employer's graded contribution rate" for a given fiscal year shall mean (i) the system graded contribution rate for such fiscal year, or (ii) in the case of an individual employer for which a graded contribution rate has been determined pursuant to paragraph three of subdivision c of this section, the graded contribution rate for the individual employer for such fiscal year.

b. Notwithstanding the provisions of this chapter or any other law to the contrary, the comptroller, in his or her discretion, shall have authority to implement this section. If the comptroller elects to implement this section, the provisions of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand ten, and for subsequent fiscal years. If the comptroller, within his or her discretion, elects to implement the alternative system graded contribution rate as provided by subdivision c-1 of this section, the provisions of paragraph one-a of subdivision d of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand thirteen, and

for subsequent fiscal years.

c. For each fiscal year to which the provisions of this section apply, the comptroller shall determine a graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand ten - two thousand eleven fiscal year the system graded contribution rate shall be nine and one-half percent.

(2) For the two thousand eleven - two thousand twelve fiscal year, and subsequent fiscal years, system graded contribution rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least nine and one-half percent and exceeds the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year plus one percentage point, provided, however, that in no event shall the system graded contribution rate be less than nine and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least nine and one-half percent and either equals the system graded contribution rate for the immediately preceding fiscal year or exceeds the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year, provided, however, that in no event shall the system graded contribution rate be less than nine and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than nine and one-half percent and greater than the system graded contribution rate for the immediately preceding fiscal year, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding

fiscal year minus one percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the system graded contribution rate for the immediately preceding fiscal year or is smaller than the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

(3) The comptroller shall determine a graded contribution rate for individual employers as provided in this paragraph. The graded contribution rate for an individual employer is the product of the system's graded contribution rate with the ratio of the employer's average actuarial contribution rate to the system's average actuarial contribution rate, not to exceed one hundred percent of the system's graded contribution rate.

c-1. For each fiscal year to which the provisions of this section apply, the comptroller shall determine an alternative system graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand thirteen - two thousand fourteen fiscal year and the two thousand fourteen - two thousand fifteen fiscal year, the alternative system graded contribution rate shall be twelve percent.

(2) For the two thousand fifteen - two thousand sixteen fiscal year and for subsequent fiscal years, the alternative system graded contribution rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least nine and one-half percent and exceeds the alternative system graded contribution rate for the immediately preceding fiscal year by more than one-half percentage point, then the alternative system graded contribution rate for the given fiscal year shall equal the alternative system graded contribution rate for the immediately preceding fiscal year plus one-half percentage point, provided, however, that in no event shall the alternative system graded contribution rate be less than nine and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least nine and one-half percent and either equals the

alternative system graded contribution rate for the immediately preceding fiscal year or exceeds the alternative system graded contribution rate for the immediately preceding fiscal year by one-half percentage point or less, then the alternative system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year, provided, however, that in no event shall the alternative system graded contribution rate be less than nine and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than nine and one-half percent and greater than the alternative system graded contribution rate for the immediately preceding fiscal year, then the alternative system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the alternative system graded contribution rate for the immediately preceding fiscal year by more than one-half percentage point, then the alternative system graded contribution rate for the given fiscal year shall equal the alternative system graded contribution rate for the immediately preceding fiscal year minus one-half percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the alternative system graded contribution rate for the immediately preceding fiscal year or is smaller than the alternative system graded contribution rate for the immediately preceding fiscal year by one-half percentage point or less, then the alternative system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

d. (1) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the employer graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less

than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a ten-year period, with interest on the unpaid balance at a rate determined by the comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, and with the first installment due in the immediately succeeding fiscal year. Provided however that, notwithstanding any provision of law to the contrary and at the sole discretion of the director of the division of the budget, the state as an amortizing employer may prepay to the retirement system the total amount of principal due for any such annual installment or installments for a given fiscal year prior to the expiration of the ten-year amortization period. In the event the state elects to make such prepayment, the director of the division of budget must identify the fiscal year or years for which the total principal amount due for the annual installment is being prepaid. In any fiscal year for which the director of the division of the budget identifies such prepayment is being made, the state (i) shall not be required to make a payment of principal to the retirement system for such fiscal year, and (ii) shall pay to the retirement system annual interest on the remaining principal balance at the rate originally set by the comptroller when the state first elected to amortize in accordance with this paragraph. Nothing contained herein shall permit the state to extend the amortization period originally established in accordance with this paragraph beyond the original ten-year amortization period.

(1-a) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the alternative system graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is

less than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a twelve year period, with interest on the unpaid balance at a rate determined by the comptroller which shall be the twelve year interpolated rate based on the most recently published yield to maturity of a ten year and twenty year U.S. Treasury Security plus one hundred basis points.

(2) For any given fiscal year for which the employer graded contribution rate equals or exceeds an amortizing employer's average actuarial contribution rate, the amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order starting with the oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(2-a) For any given fiscal year for which the alternative system graded contribution rate equals or exceeds an alternative amortizing employer's average actuarial contribution rate, the alternative amortizing employer shall pay to the retirement system an amount equal

to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the alternative amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the alternative amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order starting with the oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(3) Nothing in this subdivision shall be construed as prohibiting an employer from pre-paying any prior amortization.

e. (1) Notwithstanding any law to the contrary, there shall be maintained separate and apart from the other funds of the retirement system an employer contribution reserve fund, the assets of which shall not be used or invested in a manner contrary to the provisions of this subdivision. The fund shall consist of all employer contributions required to be deposited into the fund pursuant to subdivision d of this section. Within such fund there shall be a separate account for each employer making such contributions and payments.

(2) For any given fiscal year for which (i) the system actuarial contribution rate exceeds nine and one-half percent of payroll as of the end of the previous fiscal year, and (ii) an employer's average actuarial contribution rate exceeds the employer's graded contribution rate or the alternative employer's graded contribution rate, the balance in the employer's account within such fund shall be applied to reduce

the employer's payment to the retirement system for such fiscal year in an amount not to exceed the difference between the employer's actuarial contribution and the employer's graded contribution for the fiscal year.

(3) Notwithstanding the provisions of paragraph two of this subdivision, if at the close of any given fiscal year the balance of an employer's account within the fund exceeds the employer's actuarial contribution for the previous fiscal year, no graded payment shall be required or allowed.

(4) The assets of the fund shall be invested in only the following types of investments:

(i) obligations of the United States of America or in obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America or in obligations of the state of New York;

(ii) general obligation bonds and notes of any state other than this state, provided that such bonds and notes receive the highest rating of at least one independent rating agency;

(iii) obligations of, or instruments issued by or fully guaranteed as to principal and interest by, any agency or instrumentality of the United States acting pursuant to a grant of authority from the congress of the United States, including, but not limited to, any federal home loan bank or banks, the Tennessee valley authority, the federal national mortgage association, the federal home loan mortgage corporation and the United States postal service;

(iv) certificate of deposits that are fully secured by the issuer by depositing with the comptroller direct or indirect obligations of the United States or its agencies or a letter of credit issued by the Federal Home Loan Bank; and

(v) obligations of any corporation organized under the laws of any state in the United States maturing within two hundred seventy days provided that such obligations receive the highest rating of two independent rating services designated by the comptroller.

(5) At the close of each fiscal year, the amount of interest and earnings attributable to each employer's account shall be computed by the actuary and certified to the comptroller, who shall thereupon credit each employer's account in accordance therewith.

(6) The assets of the fund shall be excluded from the annual valuation

of the assets and liabilities of the funds of the retirement system required by section eleven of this title. The assets of the fund shall not be used to finance increases in pension benefits.

f. (1) An amortizing employer may elect to terminate participation in the contribution stabilization program provided that such employer shall have paid in full all such prior year amortization amounts including interest as determined by the comptroller. Furthermore, any amortizing employer that has terminated participation in the contribution stabilization program may re-enter the program in a year in which the employer is eligible to amortize and their employer contribution reserve fund has been depleted.

(2) An alternative amortizing employer may elect to terminate participation in the alternative contribution stabilization program provided that such employer shall have paid in full all such prior year amortization amounts including interest as determined by the comptroller. Furthermore, any alternative amortizing employer that has terminated participation in the alternative contribution stabilization program may not re-enter the alternative contribution stabilization program; provided, however, such employer may enter the regular contribution stabilization program as set forth in paragraph one of this subdivision.

(3) In order to terminate participation in the contribution stabilization or alternative contribution stabilization program, such employer must file an election on a form prescribed by the comptroller. Such election is subject to review and approval by the comptroller.

(4) Termination shall take effect for the fiscal year billing cycle following the fiscal year of approval. An employer who has been approved to terminate from the contribution stabilization or alternative contribution stabilization program pursuant to this section shall not be required to make a graded payment starting in the following fiscal year billing cycle.

(5) In the event an employer in the contribution stabilization program or alternative contribution stabilization program terminates participation pursuant to this section, any such balance in their employer contribution reserve fund shall be applied to the employer's annual bill in the maximum amount permitted under paragraph two of

subdivision e of this section, for the following fiscal year and continue to be applied to future annual bills until the reserve fund is depleted.

TITLE 3

FUNDS OF THE SYSTEM; MEMBERS' CONTRIBUTIONS AND EMPLOYERS' CONTRIBUTIONS

- Section 20. The funds of the retirement system.
- 21. Members' contributions and their use; annuity savings fund.
 - 22. Members' contributions and their use; annuity reserve fund.
 - 23. Employers' contributions and their use; pension accumulation fund.
 - 23-a. Statement of intent.
 - 24. Employers' contributions and their use; pension reserve fund.
 - 25. Appropriations in retirement bills.

§ 20. The funds of the retirement system. The funds hereby continued are the annuity savings fund, the annuity reserve fund, the pension accumulation fund and the pension reserve fund.

§ 21. Members' contributions and their use; annuity savings fund. a. The annuity savings fund shall be the fund in which shall be accumulated all contributions made by members to provide for their annuities and their withdrawal allowances.

b. Upon the basis of tables adopted by the comptroller and regular interest, the actuary shall determine the rate of contribution for each member. Such rate shall be computed as the constant proportion of annual compensation which, when deducted from each payment of such member's prospective earnable compensation until he shall attain age sixty, would provide, at that time, an annuity equal to one-one hundred fortieth of

his final average salary for each year of member service for which he shall be entitled to credit. This method of computation of a member's rate of contribution shall be appropriately modified in case of a member for whom such a rate is otherwise fixed pursuant to any other section of this article.

c. The rate of contribution of a member who is over age fifty-nine, at the time of his last becoming a member, shall be the same as if his age were fifty-nine.

d. The comptroller shall certify each member's rate of contribution to his employer. Each employer by whom a member is employed shall deduct from the compensation of such member, on each payroll and for every payroll period, the proportion of such member's compensation based upon his rate of contribution. In determining the amount earnable by a member in a payroll period, the comptroller may consider the rate of annual compensation payable to such member on the first day thereof as continuing throughout such period. If an employee was not a member on the first day of a payroll period, deductions from compensation for such period may be omitted. No deductions shall be made from the compensation of a member over age sixty who has credit for at least thirty-five years of government service and who elects to discontinue his contributions to the annuity savings fund. The contributions herein provided shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby.

e. The chief fiscal officer of each employer promptly shall certify and file a copy of each payroll with the comptroller. Each such payroll and certification shall be in a form approved by the comptroller. The comptroller, in his discretion, may waive the requirements of certification and filing as to any particular payroll.

f. Deductions from the compensation of a member shall constitute his contributions. Such contributions shall be remitted promptly to the comptroller. The comptroller shall deposit them in the annuity savings fund and they shall be credited, together with regular interest thereon, and special interest, if any, to the member's individual account in such

fund. Regular interest upon accumulated contributions in the annuity savings fund, and special interest, if any, shall be transferred to such fund from the pension accumulation fund at the close of each fiscal year.

g. If a member shall have deposited in the annuity savings fund, before June thirteenth, nineteen hundred thirty-nine, amounts in addition to the contributions then required by law, the same shall be included in his accumulated contributions. Interest thereon, however, shall be credited only at such rate as in the opinion of the comptroller is the prevailing rate of interest allowed on savings bank deposits. A member, at any time, may withdraw such additional amounts and such interest thereon, in whole or in part. The total of such withdrawn amounts may be redeposited by a single payment at any time. If such additional amounts be not withdrawn before retirement, they thereupon shall be used to purchase an annuity on account of such member. Such annuity shall be in addition to the retirement allowance to which he would otherwise be entitled. It shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this article.

h. Valuation of maintenance in certain cases. 1. A member of the retirement system, whose retirement contributions were determined by fixing the value of his maintenance at one-half the cash compensation received by him and whose contributions were subsequently reduced by the fixing of a lower value for the same maintenance theretofore furnished, may elect to have his contributions computed on the basis of his gross compensation as established prior to such reduction in value of maintenance, provided that:

(a) His retirement contributions prior to October first, nineteen hundred forty-three, were based on such higher value of maintenance as determined by the comptroller and his retirement contributions after such date were reduced because of the fixation of such lower value of maintenance, or

(b) His retirement contributions prior to April sixteenth, nineteen hundred forty-six, were based on such higher value of maintenance as determined by the board of supervisors of the county of Monroe and his

retirement contributions after such date were reduced because of the fixation of such lower value of maintenance, or

(c) He was employed by the county of Westchester on March twenty-ninth, nineteen hundred forty-eight, his retirement contributions prior to March thirty-first, nineteen hundred forty-seven, were based on such higher value of maintenance and his retirement contributions after January first, nineteen hundred forty-eight, were reduced because of the fixation of such lower value of maintenance, or

(cc) His retirement contributions prior to the initial fixation of the value of his maintenance pursuant to section two hundred one or section two hundred five of the county law, were based on such higher value of maintenance as determined by the comptroller and his retirement contributions after the date of such fixation were reduced because of the fixation of such lower value of maintenance, or

(d) He was employed by the county of Onondaga on April twelfth, nineteen hundred forty-nine, his retirement contributions prior to December fifteenth, nineteen hundred forty-seven, were based on such higher value of maintenance and his retirement contributions after December fifteenth, nineteen hundred forty-seven, were reduced because of the fixation of such lower value of maintenance, or

(e) He was or shall have been employed in a county or city tuberculosis hospital which was or shall have been transferred to the state pursuant to section twenty-two hundred sixty-eight of the public health law, his retirement contributions prior to such transfer were or shall have been based on such higher value of maintenance and his retirement contributions after such transfer were or shall have been reduced because of the fixation of such lower value of maintenance.

2. Upon filing such election and paying the additional contributions required thereby, such member shall be entitled to have his pension, retirement allowance or other rights and privileges in the retirement system computed in accordance with such gross compensation, provided that:

(a) In a case covered by subparagraph (a) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before April first, nineteen hundred forty-six, and such additional contributions are paid from and after October first, nineteen hundred

forty-three, or

(b) In a case covered by subparagraph (b) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before January first, nineteen hundred forty-eight, and such additional contributions are paid from and after April sixteenth, nineteen hundred forty-six, or

(c) In a case covered by subparagraph (c) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before January first, nineteen hundred forty-nine, and such additional contributions are paid from and after March thirty-first, nineteen hundred forty-seven, or

(cc) In a case covered by subparagraph (cc) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before October first, nineteen hundred fifty-five, and such additional contributions are paid from and after the date of the initial fixation of the value of his maintenance pursuant to such subparagraph, or

(d) In a case covered by subparagraph (d) of paragraph one of this subdivision h, such election was so filed with the county auditor on or before November first, nineteen hundred forty-nine, and such additional contributions are paid from and after December fifteenth, nineteen hundred forty-seven, or

(e) In a case covered by subparagraph (d) of paragraph one of this subdivision h, such election is so filed with the comptroller on or before April first, nineteen hundred fifty, or within one year after the date of such transfer, whichever is later, and such additional contributions are paid from and after the date of such transfer.

3. The gross compensation of such member shall be the amount established on the basis of such higher value of maintenance. Contributions based on such gross compensation shall continue to be made until such member retires or until such election is terminated as provided in paragraph four of this subdivision h.

4. An election made pursuant to paragraph one of this subdivision h shall be terminated if and when the compensation of the member, including cash and the current value of maintenance, shall equal the gross compensation of such member as fixed on the basis of the higher

value of maintenance described in such paragraph one, provided that:

(a) In a case covered by subparagraph (a) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the director of the budget pursuant to section forty-two of the civil service law, or

(b) In a case covered by subparagraph (b) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county of Monroe, or

(c) In a case covered by subparagraph (c) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county of Westchester, or

(cc) In a case covered by subparagraph (cc) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county, or

(d) In a case covered by subparagraph (d) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of Onondaga county, or

(e) In a case covered by subparagraph (d) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the director of the budget pursuant to section forty-two of the civil service law.

i. Additional contributions.

1. Any member of the retirement system, upon forms prescribed and furnished by the comptroller, may elect to make additional contributions at the rate of fifty per centum of his rate of normal contribution for the purpose of purchasing additional annuity.

2. Additional contributions made pursuant to this subdivision i shall be included in the member's accumulated contributions, except that in computing a retirement allowance:

(a) For ordinary disability pursuant to section sixty-two of this article, or

(b) In any other case under this article where the inclusion of such additional contributions in the computation of an annuity would have the effect of decreasing the amount of a pension that otherwise would be

payable,

such additional contributions shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity which otherwise would be payable in such case. Such additional annuity shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this article.

3. One year or more after the filing thereof, a member may withdraw his election to make additional contributions pursuant to this subdivision i. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller.

j. Where a member's rate of contribution is reduced because his employer contributes toward pensions-providing-for-increased-take-home-pay pursuant to section seventy-a of this article, such member may by written notice duly acknowledged and filed with the comptroller within one year after such reduction or within one year after he last became a member, whichever is later, elect to waive such reduction. One year or more after the filing thereof, a member may withdraw any such waiver by written notice duly acknowledged and filed with the comptroller. Where a member makes an election to waive such reduction, he shall contribute to the retirement system as otherwise provided in this article.

k. A member in the employ of the state who retires on or after April first, nineteen hundred seventy-three may elect to withdraw his excess contributions at the time of his retirement; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to those who retire prior to July first, nineteen hundred seventy-four. Such election shall be duly executed and filed with the comptroller. The term excess contributions shall mean accumulated contributions in excess of the amount thereof necessary to provide the required pension or retirement allowance specified under the plan applicable to the member. In no case shall such withdrawal of contributions result in an increase in the pension benefit.

1. Voluntary contributions. 1. Any member who is not otherwise required by law to make contributions may elect to make voluntary contributions for the purpose of purchasing additional annuity.

2. Voluntary contributions made pursuant to this subdivision shall be included in the member's accumulated contributions, except that in computing a retirement allowance:

(a) For ordinary disability pursuant to section sixty-two of this chapter, or

(b) In any other case under this chapter where the inclusion of such voluntary contributions in the computation of an annuity would have the effect of decreasing the amount of a pension that otherwise would be payable,

such voluntary contributions shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity which otherwise would be payable in such case. Such additional annuity shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this chapter.

3. Any member electing to make such voluntary contributions shall file such election with the comptroller on a form prescribed for such purpose by the comptroller. Such election shall specify a rate of contributions in a whole number percentage no greater than ten percent of the member's salary, such contributions to be remitted to the comptroller by regular payroll deductions from the compensation of the member. The rate of contribution shall be subject to change by the member only once in any twelve month period. These contributions may be withdrawn by the member in accordance with section fifty-one of this chapter only once in any twelve month period.

4. Any member electing to make such voluntary contributions may withdraw his election to make such contributions at any time and thereby terminate such contributions; provided, however, that such termination of voluntary contributions shall preclude the member from again electing to make such contributions for a period of twelve months.

5. Any member electing to make such voluntary contributions pursuant

to this subdivision shall be deemed by such act to have: (a) withdrawn his election to make additional contributions pursuant to subdivisions i and j of this section, and (b) made all his excess contributions in accordance with this subdivision.

§ 22. Members' contributions and their use; annuity reserve fund. a. The annuity reserve fund shall be the fund from which shall be paid all annuities and all benefits in lieu of annuities, payable pursuant to this article.

b. Upon retirement, a member's accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund. They shall then be used to provide an annuity, the amount of which shall be the actuarial equivalent of such accumulated contributions on the basis of regular interest and the tables adopted by the comptroller pursuant to this article.

c. The comptroller from time to time shall transfer from the pension accumulation fund to the annuity reserve fund, such amounts as are necessary under this article.

d. If a member, retired for any reason, returns to active public service and again becomes a member of the retirement system, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund.

§ 23. Employers' contributions and their use; pension accumulation fund. a. Except as otherwise provided pursuant to this article, the pension accumulation fund shall be the fund in which shall be accumulated:

1. All contributions made by employers, and
2. All income received from the investments of the retirement system, and

3. All monies received from all other sources and which are not required to be credited to any other fund.

b. Each employer shall make three contributions annually. They shall be known as the normal contribution, the deficiency contribution, and the administration contribution. The rates thereof shall be computed by the actuary.

1. Normal contribution. The rate of such contribution shall be applied to the members' annual compensation earned during the previous fiscal year. Such rate shall be a uniform and constant rate per centum of annual compensation. When applied to the compensation of the average new entrant during the remaining period of his or her membership, such rate shall be computed to be sufficient to provide all the benefits, other than those on account of prior service, granted by this article and which are payable from funds contributed to the pension accumulation fund.

Such rate shall be computed each year by means of an actuarial valuation as prescribed in section eleven of this article and as authorized by section twenty-three-a of this title.

2. Deficiency contribution.

(a) In the case of employers participating on July first, nineteen hundred forty-eight, the rate of such contribution shall continue to be the rate theretofore determined pursuant to law. Such rate may be varied, however, if an adjustment is necessitated by reason of the allowance of additional prior service credits.

(b) In the case of an employer electing to participate after July first, nineteen hundred forty-eight and before March thirty-first, nineteen hundred ninety-nine, an initial actuarial valuation shall be made to determine the accrued liability of such employer by reasons of the prior service of those of its employees who are members of the retirement system. The rate of deficiency contribution for such employer shall then be determined. Such rate shall be that proportion of the total annual compensation of such employees as is equivalent to four per

centum of such accrued liability. Such rate shall be applied to the employer's payroll of members, as used in the annual valuation. The cost of making such initial valuation shall be assessed against and paid by such employer.

Notwithstanding the above, for employers who commence participation in the retirement system on or after April first, nineteen hundred ninety-nine, the accrued liability shall be amortized in equal annual installments over a twenty-five year period. With respect to such employers the cost of making such initial valuation shall be assessed against and paid by the employer. The provisions of subdivisions c, d and e of this section shall not apply to employers who commence participation in the retirement system on or after April first, nineteen hundred ninety-nine.

(c) The amount of each annual deficiency contribution payable by every employer shall be at least three per centum greater than the amount for the preceding year.

(d) The comptroller shall approve the discontinuance of the state's deficiency contribution on account of members employed by it when:

(1) The total amount in the pension accumulation fund on account of all members, and

(2) The present value of future deficiency contributions still to be paid by other employers, and

(3) The present value of future normal contributions, on the basis of the rate of normal contribution then in effect, shall equal the then present value of the total liability of such fund on the basis of the tables then in use.

(e) Unless previously discontinued, or unless hereafter discontinued pursuant to other provisions of law, the deficiency contribution of a participating employer shall be discontinued when the total amount of deficiency contributions paid by such employer at least equals or shall hereafter equal such percentum of its initial accrued liability computed by the actuary as shall equal that percentum of the state's initial accrued liability paid by deficiency contributions during the period equal to the period last determined by the actuary as the deficiency payment period. Nothing herein contained shall be deemed to give any participating employer any valid claim or cause of action for refund or

credit for any sum or sums paid or to be paid for fiscal years prior to and including the fiscal year ending March thirty-first, nineteen hundred sixty-six nor to excuse any participating employer from the payment of any contributions for such fiscal years.

3. Administration contribution.

(a) The expenses of the retirement system, including an amount allocated to amortize over a period of thirty years, with interest, the cost of construction of the retirement system building, and the cost of maintenance of such building, for each fiscal year shall be determined at the close of each such year. The ratio of such expenses to the total compensation of all members, as used in the actuarial valuation, shall be the rate of such administration contribution. Such rate shall be applied to each employer's payroll of members, as used in the annual valuation.

(b) All such expenses shall be paid out of the pension accumulation fund which shall be reimbursed through administration contributions and other monies received from employers pursuant to this article.

(c) Notwithstanding any other provision of this subdivision or any other law, the administrative contribution for a year, as determined pursuant to paragraph one of subdivision b of this section, shall be paid from the pension accumulation fund if payment from such fund will not affect the normal contribution for such year.

c. Additional contributions shall be made in accordance therewith by employers obligated to contribute to the retirement system pursuant to any other section of this article.

d. When a pension or a pension-providing-for-increased-take-home-pay, if any, becomes payable to or on account of any member, a reserve, in an amount computed by the actuary to be necessary to provide the pension or pension-providing-for-increased-take-home-pay, if any, granted in each such case, shall be transferred from the pension accumulation fund to the pension reserve fund.

e. Whenever the comptroller, upon recommendation by the actuary, shall determine that it is necessary to increase the reserves held in the

annuity reserve fund or the pension reserve fund, he may direct that the amount so needed shall be transferred thereto from the pension accumulation fund.

f. The amount of regular interest which is to be credited to the annuity savings fund, the annuity reserve fund and the pension reserve fund, and the amount of special interest, if any, which shall be credited to the annuity savings accounts in the annuity savings fund, shall be determined after the close of each fiscal year. Each such amount thereupon shall be transferred from the pension accumulation fund to each such fund.

§ 23-a. Statement of intent. a. This legislation is intended, by means of a comprehensive reform program, to strengthen the long-term fiscal health of the retirement system, to reduce the volatility of contribution rates and to provide budget certainty for participating employers by addressing current structural problems with respect to the calculation and payment of employer contributions. There is a need to address structural problems in the current billing cycles for the state and local governments with respect to their annual contributions to the retirement system. The state currently pays its contributions on the basis of estimates, which are subject to adjustment at a later date (with interest, if applicable) on the basis of subsequent calculations of the required contributions. Local governments must currently adopt budgets based on estimates of the required contributions, but then make payment of the full amount of the actual contributions that are finally billed on the basis of subsequent calculations of the required contributions. In addition, dramatic fluctuations in the performance of the investment markets have produced unprecedented volatility in employer contribution rates. These rate fluctuations have been exacerbated by the lack of a reasonable minimum payment by employers in years where investment performance was strong and employer rates were low. In order to enhance the continuing ability of the retirement system to provide services and benefits for the more than nine hundred forty thousand members and retirees and for their beneficiaries, this section provides for measures to (1) enhance the long-term fiscal health of the

retirement system, (2) facilitate the planning and budgeting of state and participating employer contributions, and (3) ease the volatility of retirement system employer contribution rates in the future.

b. Notwithstanding the provisions of this chapter or any other provision of law to the contrary, the comptroller shall have the authority, in his or her discretion, to implement a comprehensive structural reform program, which shall consist of all of the following measures:

1. revision of the schedule pertaining to the valuation, billing and payment of contributions by the state and participating employers under which the valuation of the assets and liabilities of the retirement system undertaken on the first day of a fiscal year shall be used to determine the contribution rates to be applied to the pensionable salaries of the state and participating employers earned during such fiscal year for the payment of contributions due for the next succeeding fiscal year; and

2. requiring a minimum annual contribution from the state and every participating employer (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that the state or participating employer is permitted to pay on an amortized basis) equal to four and one-half percent of pensionable salaries. Effective immediately upon implementation by the comptroller of the comprehensive structural reform program set forth in this section, and in all subsequent years, participating employers shall pay either the required annual contribution determined under the revised schedule pertaining to the valuation, billing and payment of contributions pursuant to paragraph one of this subdivision, or the required minimum annual contribution of four and one-half percent of pensionable salaries, whichever is greater; and

3. notwithstanding any provision of subdivision a of section sixteen of this article to the contrary, upon the comptroller's implementation

of the measures set forth in this subdivision, all contributions payable by the state and participating employers under the valuation, billing and payment schedule implemented under paragraph one of this subdivision, including the minimum contribution required by paragraph two of this subdivision, must be paid in full by the state on or before March first of the then current fiscal year and by participating employers on the date set forth in subdivision c of section seventeen of this article.

§ 24. Employers' contributions and their use; pension reserve fund.

a. The pension reserve fund shall be the fund from which shall be paid all pensions and all other benefits, except ordinary death benefits, payable wholly out of contributions made to the pension accumulation fund pursuant to this article.

b. When a pension or a pension-providing-for-increased-take-home-pay becomes payable to or on account of any member, the amount of the reserve computed by the actuary to be necessary to provide the pension and the pension-providing-for-increased-take-home-pay, if any, payable out of the pension reserve fund shall be transferred to the pension reserve fund from the pension accumulation fund.

c. The comptroller shall transfer from the pension accumulation fund to the pension reserve fund, from time to time, such amounts as are necessary under this article.

d. The amount of regular interest to be credited to the monies held in the pension reserve fund shall be determined after the close of each fiscal year. Such amount thereupon shall be transferred from the pension accumulation fund to the pension reserve fund.

e. If a member, retired for any reason, returns to active public service and again becomes a member of the retirement system, his pension reserve shall be transferred from the pension reserve fund to the pension accumulation fund.

f. If the pension of a beneficiary is reduced for any reason, the amount of such reduction shall be transferred from the pension reserve fund to the pension accumulation fund during that period that such reduction is in effect.

§ 25. Appropriations in retirement bills. The state shall make a payment to the retirement system in an amount equal to the value of the benefits associated with prior service upon the enactment of a bill which enacts or amends any provision of law relating to a retirement system or plan of the state of New York or of any of its political subdivisions. The state may amortize such payment over a five year period at a rate of interest to be determined by the retirement system. Such bill shall contain an itemized appropriation from the state's general fund beginning for the fiscal year in which such amendment becomes effective and which shall not be used for any other purpose, sufficient to disburse a minimum of the first of five such amortization payments plus the present value of the benefits provided to employees of the state or its political subdivisions by the bill for the current fiscal year. The state shall continue to pay for the cost of the benefits as provided by the bill to the state and its political subdivisions on an ongoing basis. Such appropriation from the state's general fund shall only be required when a bill is enacted on a statewide basis. In addition, such appropriation from the state's general fund shall not be required when the benefits provided by a particular bill must be elected by a participating employer, local government, or school district.

TITLE 4

PARTICIPATION IN SYSTEM BY POLITICAL SUBDIVISIONS AND OTHER ORGANIZATIONS

- Section 30. Participation by municipalities.
31. Participation by public or quasi-public organizations.
- 31-a. Participation by school district public libraries.
- 31-b. Participation by the Upper Hudson Library System.
- 31-c. Participation by the Metropolitan Reference and Research

Library Agency.

- 31-d. Participation by the Pioneer Library System.
- 31-e. Participation by the Keuka Lake watershed improvement cooperative.
- 31-f. Participation by the Henry Viscardi school.
- 31-f*2. Participation by the Northern Westchester joint water works.
- 32. Participation by certain New York city libraries.
- 33. Election of certain optional retirement benefits by participating employers.
- 34. Reporting of service and salary information.

§ 30. Participation by municipalities. a. A municipality may elect to participate in the retirement system. Such election shall be exercised by the adoption of a resolution approved by its local legislative body and any other body or officer required by law to approve resolution of such local legislative body. Upon the filing of a certified copy of such resolution with the comptroller, such election shall be irrevocable, and the municipality shall become a participating employer, subject, however, to the conditions provided in this subdivision.

1. A municipality not participating in the retirement system prior to October first, nineteen hundred fifty-three, and which has not provided old-age and survivors insurance coverage for its employees, may, at the time of making election to participate, exclude from eligibility for membership in the retirement system such class or classes of offices and positions for which membership in the retirement system is not made mandatory by this article, as the municipality may specify in such resolution. Participation by any such municipality which may exclude from eligibility for membership any class or classes of its offices or positions shall not become effective until such municipality shall have entered into an agreement to provide old-age and survivors insurance coverage for such class or classes of offices or positions in the manner and to the extent provided by article three of this chapter.

2. Any municipality participating in the retirement system prior to

October first, nineteen hundred fifty-three, may, by the adoption of a resolution in the manner herein provided and filed with the comptroller prior to the time such municipality makes an agreement to provide old-age and survivors insurance coverage for its employees, elect to exclude from eligibility for membership in the retirement system any class or classes of offices or positions for which membership in the retirement system is not made mandatory by this article. Public notice of the proposed adoption of any such resolution shall be given at least three months prior to the adoption thereof. Officers and employees holding offices or positions in any such excluded class or classes, however, who are members of the retirement system at the time of the filing of such resolution shall continue to be members of the retirement system. Such resolution providing for such exclusion from eligibility for membership shall not become effective, however, until such participating municipality shall have entered into an agreement to provide old-age and survivors insurance coverage for the class or classes of offices or positions so excluded from eligibility for membership in the retirement system in the manner and to the extent provided by article three of this chapter.

3. The power to exclude employees from eligibility for membership in the retirement system pursuant to paragraph one or paragraph two of this subdivision a shall terminate on the day after the modification extending the old-age and survivors insurance system to any position covered by such system and held by an employee of a political subdivision of the state (exclusive of one in a police officer's or firefighter's position) is executed.

b. Participation by members of local pension systems.

1. In the event that sixty per centum of the members of any local pension system petition to become members of this retirement system, their participation may be approved in the manner provided by subdivision a of this section.

2. As of the date such participation is approved:

(a) The operation of such local pension system shall be discontinued.

(b) The existing pensioners and annuitants of such local pension system shall be continued and paid at their existing rates by this retirement system.

(c) Any cash and securities to the credit of such local pension system shall be transferred to this retirement system.

(d) The trustees or other administrative head of such local pension system shall certify the proportion, if any, of the funds of such system that represents the accumulated contributions of the members and the individual shares of the members therein. Such shares shall be credited to the respective annuity savings accounts of such members in this retirement system. The balance of the funds so transferred to this retirement system shall be offset against the liability on account of existing pensioners, annuitants and active members. The resulting liability so determined shall be the basis for the rate of deficiency contribution of such county, city, town or village as determined pursuant to section twenty-three of this article.

c. Participation by a municipality pursuant to this section shall cover all agencies of the government of such municipality including the free public library, if any, of such municipality, unless separate participation by any such agency or school district public library has been approved pursuant to section thirty-one, thirty-one-a or thirty-two of this article.

§ 31. Participation by public or quasi-public organizations. a. Any public or quasi-public organization created wholly or partly or deriving its powers by the legislature of the state and which organization employs persons engaged in service to the public or any state agency as defined in section fifty-three-a of the state finance law, or the New York state association of town superintendents of highways, inc. or any school board association, by resolution legally adopted by its governing body and approved by the comptroller, may elect to have its officers and employees become eligible to participate in the retirement system. Acceptance of the officers and employees of such an employer for membership in the retirement system shall be optional with the comptroller. If he shall approve their participation, such organization,

except as specifically provided in this article to the contrary, shall thereafter be treated as a participating employer. Any election made pursuant to this subdivision by a school board association shall be applicable to current employees of such association.

b. The officers and employees of such organization shall be credited with such periods of prior service as shall be certified by their employer for service rendered to it, or its predecessor, or the state, or in any other capacity approved by such employer and the comptroller. Service for such employer after the date on which it commences to participate in the retirement system and on account of which such employer pays contributions shall be considered as member service. An officer or employee of such employer who, as of the date he is so approved for membership in the retirement system, is already a member thereof, shall not have his total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such employer on account of such officer or employee for any prior service credit and any such previous credit. Except as otherwise provided in this article, an officer or employee of such employer who, by reason of this service, is a member of any other governmental retirement system shall not participate in this retirement system on that part of his compensation so covered. The term "governmental retirement system", as used in this subdivision, shall include any retirement system wholly or partly maintained by this state, by a municipality of this state, by another state or political subdivision thereof, by the United States government, or by any foreign country or political subdivision thereof.

c. An agreement, made by such an employer pursuant to this section, to contribute on account of its officers and employees shall be irrevocable. In the event that such employer for any reason becomes financially unable to make the contributions required on account of its officers and employees, it shall be deemed to be in default. A certificate to such effect thereupon shall be sent by the comptroller to the employer and to the state superintendent of financial services. Every member of the retirement system, who was an officer or employee of

such employer at the time of default, upon demand made within ninety days thereafter, shall be entitled to discontinue his membership in the retirement system and to a refund of his accumulated contributions. As of a date ninety days following the date of such certificate of default, the actuary of the retirement system, by actuarial valuation, shall determine the amount of the reserves held on account of each active member and pensioner of such employer. He shall credit to each such member and pensioner the amount of reserve so held. In the event such an active member does not discontinue his membership and thus become entitled to the refund of his accumulated contributions, the reserve so credited, together with the amount of his accumulated contributions shall be used to provide for him a paid up deferred annuity beginning at age sixty. The reserve of each pensioner shall be used in providing such part of his existing pension as the reserve so held will provide, which pension, together with his annuity, shall thereafter be payable to him. The rights and privileges of both active members and pensioners of such employer shall thereupon terminate except as to the payment of the deferred annuities so provided for the previous active members and the annuities and the pensions, or parts thereof, provided for the pensioners.

d. Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the officers, employees or pensioners of any employer under this section, for which reserves have not been previously created from funds contributed by such employer or its officers or employees for such benefits. This provision shall not apply to any municipality which elected to participate in the retirement system under former section seventy-five-a of this law prior to July first, nineteen hundred forty-eight.

e. 1. Any public organization not participating in the retirement system prior to October first, nineteen hundred fifty-three, and which has not provided old-age and survivors insurance coverage for its employees, may, at the time of making election to participate, exclude from eligibility for membership in the retirement system such class or classes of offices or positions for which membership in the retirement

system is not made mandatory by this article, as the public organization may specify in the resolution adopted pursuant to subdivision a of this section. Participation by any such public organization which may exclude from eligibility for membership any class or classes of its offices or positions shall not become effective until such public organization shall have entered into an agreement to provide old-age and survivors insurance coverage for such class or classes of offices or positions in the manner and to the extent provided by article three of this chapter.

2. Any public organization participating in the retirement system prior to October first, nineteen hundred fifty-three, may, by the adoption of a resolution in the manner provided in subdivision a of this section and filed with the comptroller prior to the time such public organization makes an agreement to provide old-age and survivors insurance coverage for its employees, elect to exclude from eligibility for membership in the retirement system any class or classes of offices or positions for which membership in the retirement system is not made mandatory by this article. Public notice of the proposed adoption of any such resolution shall be given at least three months prior to the adoption thereof. Officers and employees holding offices or positions in any such excluded class or classes, however, who are members of the retirement system at the time of the filing of such resolution shall continue to be members of the retirement system. Such resolution providing for such exclusion from eligibility for membership shall not become effective, however, until such public organization shall have entered into an agreement to provide old-age and survivors insurance coverage for the class or classes of offices or positions so excluded from eligibility for membership in the retirement system in the manner and to the extent provided by article three of this chapter.

3. The power to exclude employees from eligibility for membership in the retirement system pursuant to paragraph one or paragraph two of this subdivision e shall terminate on the day after the modification extending the old-age and survivors insurance system to any position covered by such system and held by an employee of a political subdivision of the state (exclusive of one in a police officer's or firefighter's position) is executed.

§ 31-a. Participation by school district public libraries. a. A school district public library, by resolution legally adopted by its board of trustees, may elect to become a participating employer in the retirement system, separate and distinct from the school district. Acceptance of the school district public library as a participating employer in the retirement system shall be mandatory with the comptroller.

b. The officers and employees of such library shall be credited with such periods of prior service as shall be certified by the library for service rendered to it, or its predecessor, or the state, or in any other capacity approved by such library and the comptroller. Service for such library after the date on which it commences to participate in the retirement system shall be considered as member service. An officer or employee of such library who, as of the date he is so approved for membership in the retirement system, is already a member thereof, shall not have his total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such library on account of such officer or employee for any prior service credit and any such previous credit.

§ 31-b. Participation by the Upper Hudson Library System. a. The Upper Hudson Library System may, by resolution adopted by its board of trustees and approved by the comptroller, elect to participate in the retirement system. Acceptance of its employees for membership in the retirement system shall be optional with the comptroller, who shall determine the amounts of contribution payable by such system and its employees, shall resolve questions of credit for prior service, and shall in all other respects assure that such employees share the same rights, obligations and benefits as other members of the retirement system.

b. The officers and employees of such system shall be credited with

such periods of prior service as shall be certified by such system for service rendered to it, or the state, or in any other capacity approved by such system and the comptroller. Service for such system after the date on which it commences to participate in the retirement system shall be considered as member service. An officer or employee of such system who, as of the date he or she is so approved for membership in the retirement system, is already a member thereof, shall not have his or her total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such system on account of such officer or employee for any prior service credit and any such previous credit.

§ 31-c. Participation by the Metropolitan Reference and Research Library Agency. a. The Metropolitan Reference and Research Library Agency may, by resolution adopted by its board of trustees and approved by the comptroller, elect to participate in the retirement system. Acceptance of its employees for membership in the retirement system shall be optional with the comptroller, who shall determine the amounts of contribution payable by such agency and its employees, shall resolve questions of credit for prior service, and shall in all other respects assure that such employees share the same rights, obligations and benefits as other members of the retirement system.

b. The officers and employees of such agency shall be credited with such periods of prior service as shall be certified by such agency for service rendered to it, or the state, or in any other capacity approved by such agency and the comptroller. Service for such agency after the date on which it commences to participate in the retirement system shall be considered as member service. An officer or employee of such agency who, as of the date he or she is so approved for membership in the retirement system, is already a member thereof, shall not have his or her total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such agency on account of such officer or employee for any

prior service credit and any such previous credit.

§ 31-d. Participation by the Pioneer Library System. a. The Pioneer Library System may, by resolution adopted by its board of trustees and approved by the comptroller, elect to participate in the retirement system. Acceptance of its employees for membership in the retirement system shall be optional with the comptroller, who shall determine the amounts of contribution payable by such system and its employees, shall resolve questions of credit for prior service, and shall in all other respects assure that such employees share the same rights, obligations and benefits as other members of the retirement system.

b. The officers and employees of such system shall be credited with such periods of prior service as shall be certified by such system for service rendered to it, or the state, or in any other capacity approved by such system and the comptroller. Service for such system after the date on which it commences to participate in the retirement system shall be considered as member service. An officer or employee of such system who, as of the date he or she is so approved for membership in the retirement system, is already a member thereof, shall not have his or her total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such system on account of such officer or employee for any prior service credit and any such previous credit.

§ 31-e. Participation by the Keuka Lake watershed improvement cooperative. a. The Keuka Lake watershed improvement cooperative, by resolution legally adopted by its board of directors, may elect to become a participating employer in the retirement system. Acceptance of the Keuka Lake watershed improvement cooperative as a participating employer in the retirement system shall be optional with the comptroller.

b. The officers and employees of such cooperative shall be credited

with such periods of prior service as shall be certified by the cooperative for service rendered to it, or its predecessor, or the state, or in any other capacity approved by such cooperative and the comptroller. Service for such cooperative after the date on which it commences to participate in the retirement system shall be considered as member service. An officer or employee of such cooperative who, as of the date he is so approved for membership in the retirement system, is already a member thereof, shall not have his total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such cooperative on account of such officer or employee for any prior service credit and any such previous credit.

*** § 31-f. Participation by the Henry Viscardi school.** a. The Henry Viscardi school may, by resolution adopted by its board of trustees and approved by the comptroller, elect to participate in the retirement system. Acceptance of its employees for membership in the retirement system shall be optional with the comptroller, who shall determine the amounts of contribution payable by such employer and its employees, shall resolve questions of credit for prior service, and shall in all other respects assure that such employees share the same rights, obligations and benefits as other members of the retirement system.

b. The officers and employees of such employer shall be credited with such periods of prior service as shall be certified by such employer for service rendered to it, or the state, or in any other capacity approved by such employer and the comptroller. Service for such employer after the date on which it commences to participate in the retirement system shall be considered as member service. An officer or employee of such employer who, as of the date he or she is so approved for membership in the retirement system, is already a member thereof, shall not have his or her total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such employer on account of such officer or employee for

any prior service credit and any such previous credit.

c. Notwithstanding the election by the Henry Viscardi School to participate in the retirement system, employees of such employer, who are employed by the employer prior to the effective date of this section, shall have the option to continue participation in the employer sponsored retirement plan. Provided, however, an employee, who exercises the option to continue participation in the employer sponsored retirement plan, shall not be entitled to be a member of the retirement system. Such election shall be irrevocable.

* NB There are 2 § 31-f's

*** § 31-f. Participation by the Northern Westchester joint water works.**

a. The Northern Westchester joint water works may, by resolution adopted by its board of trustees and approved by the comptroller, elect to participate in the retirement system. Acceptance of its employees for membership in the retirement system shall be optional with the comptroller, who shall determine the amounts of contribution payable by such system and its employees, shall resolve questions of credit for prior service, and shall in all other respects assure that such employees share the same rights, obligations and benefits as other members of the retirement system.

b. The officers and employees of such water works shall be credited with such periods of prior service as shall be certified by such water works for service rendered to it, or the state, or in any other capacity approved by such water works and the comptroller. Service for such water works after the date on which it commences to participate in the retirement system shall be considered as member service. An officer or employee of such water works who, as of the date he or she is so approved for membership in the retirement system, is already a member thereof, shall not have his or her total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such water works on account of such officer or employee for any prior service credit and any

such previous credit.

* NB There are 2 § 31-f's

§ 32. Participation by certain New York city libraries. a. The boards of trustees of The New York Public Library, Astor, Lenox and Tilden Foundations, The Brooklyn Public Library and The Queens Borough Public Library, which organizations employ persons engaged in service to the public, by resolution legally adopted and approved by the comptroller, may elect to have their employees become eligible to participate in the retirement system. When such election is made by the board of trustees of any such library in pursuance of an agreement or plan concluded between it and the city of New York, for such of its employees whose salaries and compensation are paid from appropriations to such library by the city of New York in its budget, then such board of trustees shall also elect by separate resolution to have such of its employees, whose salaries and compensation for services are paid out of its own corporate funds, become eligible to participate in the retirement system.

b. Acceptance of the employees of such an employer for membership in the retirement system shall be optional with the comptroller. If he shall approve their participation, then such organization shall be treated as if it were a municipality that has approved the participation of its employees in the retirement system as provided in section thirty of this article. The comptroller shall determine the amounts of contribution payable by such libraries and their employees, and, in all other respects in so far as this article covering such a municipality is applicable, shall similarly treat all such employees.

c. When, as a condition of a contract or plan concluded with any one of such libraries, a number of whose employees are being paid from salaries and compensation for services out of appropriations as aforesaid, the city of New York obligates itself in any manner to pay or cause to be paid deficiency and normal contributions on account of such employees to the extent of, and not in excess of, a certain specified rate based on a fixed percentage of the payroll appropriated, then the comptroller shall have power to accept the participation of all the

employees of such organization on the same terms and subject to the same limitations as provided for under both aforesaid resolutions. Such employees shall in all other respects participate in the retirement system as provided in section thirty-one of this article.

d. Should there be a default in paying or causing to be paid pursuant to any contract or agreement with such employer the deficiency and normal contributions on account of the employees of any such library, whose salaries and compensation for services are paid out of funds appropriated by such city, or, if the amount of such contributions required to be paid by such city, pursuant to any contract or agreement made prior to the first participation of such employees, a copy of which shall have been filed with the comptroller, is, in the judgment of the comptroller, insufficient and inadequate to continue the membership of the employees of such employer in the retirement system because of the limit set in such contract, then such employer shall immediately be relieved and exonerated from any duty or obligation to any person whatsoever from making any contribution on account of any or all its employees. A certificate to such effect shall be sent to the employer and to the state superintendent of financial services. All members of the retirement system, who were employees of such employer at the time such certificate is issued, shall thereupon be entitled to discontinue membership as provided in section thirty-one of this article. Any such employer, however, within thirty days of the receipt of such certificate may notify the comptroller that it elects to continue the benefits of the retirement system for such of its employees whose salaries and compensation for services are paid out of its own corporate funds.

e. Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the officers and employees or pensioners of any employer under this section, for which reserves have not been previously created from funds contributed by such employer or its officers and employees for such benefits.

§ 33. Election of certain optional retirement benefits by

participating employers. By the adoption, filing and approval, where required, of a resolution in the manner provided by section thirty, section thirty-one or section thirty-two of this article, a participating employer may elect to provide for its own employees the benefit provided for persons in the employ of the state listed in subdivision j of section forty-one and may elect to provide the benefits provided for employees of participating employers in section sixty-b and section seventy-five-i of this article. Such election may be for a limited period if such limitation is included in the resolution, upon the expiration of which such election will be deemed revoked.

§ 34. Reporting of service and salary information. The comptroller shall adopt rules and regulations, which shall have the force and effect of law, for the reporting of service and salary information for all employees of participating employers. The chief fiscal officer of each participating employer, or if there be no chief fiscal officer, the officer exercising similar duties, shall file the report with the comptroller, in such form and at such times as may be prescribed in the rules and regulations. The refusal or willful neglect of such chief fiscal officer or other official to file the report as herein prescribed shall be a violation and shall subject the officer so refusing or neglecting to a penalty of five dollars per day for each day's delay beyond seven days, to be paid on demand of the comptroller.

TITLE 5

RIGHT TO MEMBERSHIP, SERVICE CREDIT AND TRANSFERS BETWEEN RETIREMENT SYSTEMS

Section 40. Membership of retirement system.

41. Allowances for service.

42. Payments for credit for service for the federal government or certain public authorities or corporations.

43. Transfer of members between systems.

44. Certain local pension system credit for compensation received for constitutional convention service.

45. Right to membership.

§ 40. Membership of retirement system. a. Each person who becomes a member of the retirement system shall file a duly executed application with the comptroller. Such application shall contain:

1. A detailed statement of all such person's service, and
2. A statement that he consents and agrees to membership and to the contributions prescribed by this article.

b. Membership in the retirement system shall be mandatory for the following:

1. All persons who enter or re-enter the service of the state or of a participating employer on and after July first, nineteen hundred forty-eight, except those:

- (a) In the exempt class of the classified service.
- (b) In the labor class.
- (c) Who are laborers and who are not covered by article nine of the military law.
- (d) In the unclassified service.
- (e) Who are teachers or instructors and who are eligible to membership in another retirement system.
- (f) Sixty years of age and over, whose positions in the exempt class, labor class or unclassified service have by reason of a reclassification of positions on or after December fifteenth, nineteen hundred forty-eight, been placed in the competitive or non-competitive class of the classified service.
- (g) Whose positions are excluded from eligibility for membership in the retirement system and are covered only by old-age and survivors insurance.
- (h) Whose positions pay compensation at a rate of less than fifteen hundred dollars a year.
- (i) Otherwise specifically provided for by law.

Persons employed in state or local institutions reporting to or subject to the supervision of the state departments of correction, education,

social welfare, health or mental hygiene need not become members until the completion of six months of service.

2. (a) Those persons who enter or re-enter service in the state colleges of agriculture, home economics, veterinary medicine, or industrial and labor relations, the state agricultural experiment station at Geneva, or any other institution or agency under the management and control of Cornell university as representative of the state university trustees, or who enter or re-enter service in the state college of ceramics under the management and control of Alfred university as the representative of the state university trustees, and who do not elect the optional retirement program established by article eight-B of the education law, except employees who hold federal cooperative appointments with the United States department of agriculture as designated by the director of the New York state cooperative extension service and who are eligible for participation in the federal retirement system as provided in subparagraph (b) below. Each such member shall be covered by the provisions of this article to the full amount of the salary paid to him from direct or indirect federal or state taxes. Any person who is in such service when this paragraph takes effect and who has not made contribution to the annuity savings fund of the New York state employees' retirement system may on or before July first, nineteen hundred fifty-seven become a member of the New York state employees' retirement system and receive credit for allowable service rendered prior to January first, nineteen hundred twenty-one, by filing with the comptroller a statement duly executed and acknowledged, consenting and agreeing to membership and to the deductions for annuity purposes prescribed in this article, provided he or she shall pay to the proper fund in installments as he or she shall elect, except that such payments shall be made within a period no greater than the number of months of his or her service elapsed between January first, nineteen hundred twenty-one and his or her date of membership, an amount equal to the amount that would have been in the fund had he or she been a member during such elapsed service. Such persons shall receive member service credit for the time for which such payments are made.

(b) (1) Any employee of a county extension service association and any

employee of Cornell university appointed for the first time on or after August first, nineteen hundred seventy-seven who holds a federal cooperative appointment with the United States department of agriculture as designated by the director of the New York state cooperative extension service and who is eligible for participation in the federal retirement system shall be excluded from membership in the state employees' retirement system;

(2) any person who on or before July thirty-first, nineteen hundred seventy-seven holds a state cooperative appointment as designated by the director of the New York state cooperative extension service, may elect to receive federal cooperative appointment in the manner provided for by the relevant federal laws, rules and regulations and to participate in the federal retirement system and discontinue participation in the state retirement system by filing a written notice of termination, on or before December thirty-first, nineteen hundred seventy-eight with the comptroller. Any employee who is a member of the New York state employees' retirement system at the time he or she elects coverage in the federal retirement program shall be deemed to be a person who discontinues service on the effective date of such election, for the purpose of determining his or her eligibility for rights and benefits in such state system; provided however, that if he or she does not withdraw accumulated contributions, (i) continued service with the county extension service association or Cornell university while under the federal retirement program shall be deemed to be member service in the state employees' retirement system for the purpose of determining eligibility for any vested retirement allowance, retirement allowance or ordinary death benefit under such system dependent upon a specified period of total service or upon attainment of a specified age while in service or upon death while in service; and (ii) the amount of any such benefit to which the person or his or her estate or person designated by him or her may become entitled under either such system shall be computed only on the basis of service otherwise creditable to him or her therein and his or her compensation during such service. Electing employees and their beneficiaries shall not be entitled to any right or benefit under the New York state employees' retirement system other than a vested retirement allowance, retirement allowance or ordinary death benefit to the extent provided for in this chapter.

3. Every police officer and firefighter, appointed to and employed by a city, county, town, village or police or fire district, in a position in the classified civil service, other than in a position in the exempt class, and who is not eligible to become a member of a local pension system. Notwithstanding any other provision of this article, so far as such police officers and firefighters are concerned, their employers shall be treated in all respects as if they were participating employers. Such employers shall pay into the pension accumulation fund the amount required to pay the accrued liability on account of such police officers and firefighters, as computed by the actuary. Such payment shall be made in such installments as the comptroller shall require.

c. The following may become members of the retirement system:

1. An officer or employee who is in the service of a participating employer on the date it becomes a participating employer, unless his office or position has been excluded from eligibility for membership in the retirement system pursuant to sections thirty or thirty-one of this article.

2. An officer or employee in the service of the state or of a participating employer who would be excluded from membership by the provisions of subdivision e of this section except for the fact that he, nevertheless, may become a member pursuant to a specific provision of law.

3. Any other person in the service of the state or a participating employer, except as provided in subdivision b or subdivision e of this section.

4. Officers or employees of the federal government who have at least five years of member service credit at the time they become federal officers or employees may continue as contributing members.

The provisions of this paragraph four as hereby amended shall not

affect the membership of officers or employees of the federal government heretofore commenced or continued hereunder, provided, however, that all memberships hereunder shall be conditioned upon the receipt by the retirement system of the payments required by section forty-two of this article.

5. A person who:

(a) Is a teacher within the meaning of subdivision four of section five hundred one of the education law,

(b) Is not a member of the New York state teachers' retirement system and has not elected the optional retirement program established either by article eight-b or by article three, part V of the education law,

(c) On or after April first, nineteen hundred fifty, enters upon his employment as such a teacher in a state-operated institution or community college under the jurisdiction of the board of trustees of the state university, and

(d) Elects to become a member of this retirement system upon his entry into such employment and at no other time.

6. An officer or employee who is in the service of an institution for the instruction of the deaf, mute or the blind, which receives state pupils whose instruction and support are paid for by the state or a participating employer.

7. All war veterans in state service on March twenty-first, nineteen hundred thirty, entitled to benefit under the provisions of former section twenty-one-a of the civil service law or former subdivision eight of section three of the public buildings law or section two hundred fourteen or two hundred fifteen of the military law shall have the right to elect to become members of the New York state employees' retirement system, and to be covered by all the provisions of law relative thereto. Upon exercising such right, such war veteran shall be deemed to have waived his rights to any benefits under such sections.

8. Any person who is regularly employed under the control of the division of military and naval affairs whose duties in such employment require substantially all normal working hours and whose regular

compensation is paid by the United States from funds allocated to the New York army national guard, or the New York air national guard. For purposes of eligibility for membership in the retirement system, such employees shall be deemed to be employees of the state. The provisions of this paragraph eight shall be effective only if and during the time that the United States shall undertake to and does provide the employers' contributions which the state is required to pay to the retirement system on account of the memberships of such employees.

9. Notwithstanding any inconsistent provision of subdivision e of this section, or of this chapter or of any other law, an officer or employee in the service of the state or of a participating employer who, at the time of entering such service, was or is entitled to benefits by any other pension or retirement system maintained by the state or a political subdivision thereof, provided such benefits, exclusive of any annuity based solely on his own contributions and interest thereon, are suspended during his active membership in the retirement system. He shall contribute to the retirement system as a new member.

d. A member, discontinued from the government service because the office in which he was employed was transferred to:

1. The federal government, or

2. Any public authority or public corporation organized pursuant to the laws of this state and which is not a participating employer, may file a written election with the comptroller stating that he elects to continue as a member. Such election shall be subject to the approval of the comptroller and such continuance shall be conditioned upon the receipt by the retirement system of the payments required by section forty-two of this article.

e. Any person who is or may be entitled to benefits by any other law providing for pensions and annuities for civil service employees, wholly or partly at the expense of the state or of a political subdivision thereof, shall not be a member. This provision, however, shall not:

1. Affect the membership of any person who legally is a member of the retirement system on July first, nineteen hundred forty-eight.

2. Exclude from membership any person who is or may become a member pursuant to paragraph two of subdivision c of this section.

3. Exclude from membership any person paid a salary from two or more sources, each of which entitles him to membership in a retirement system.

4. Exclude from membership any person holding office pursuant to appointment by the governor by and with the advice and consent of the senate, who at the time of such appointment would otherwise be entitled to a retirement allowance wholly or partly at the expense of the state or of a political subdivision thereof.

5. Exclude from membership any person who is or may become eligible for old-age and survivors insurance benefits pursuant to the provisions of this article except where his position was or is excluded from eligibility for membership in this retirement system in order to extend old-age and survivors insurance coverage to it and such eligibility shall not have been restored.

f. Termination of membership. Membership in the retirement system shall cease upon the occurrence of any one of the following conditions:

1. When seven years have elapsed since a member has performed government service provided, however, that no part of such seven year period shall run during such time as a member, with at least five years of member service credit, shall serve as an officer or employee of the federal government or the United Nations or other international organizations of which the United States of America is a member.

2. When a member shall die.

3. When a member shall retire.

4. When a member shall have withdrawn all or part of his accumulated contributions. Acceptance by a member of a refund of excess contributions pursuant to subdivision g of section twenty-one, subdivision c of section seventy-two, subdivision c or d of section seventy-one, subdivision c or d of section seventy-one-a or subdivision c of section eighty-four, subdivision i of section eighty-five or subdivision h of section eighty-six of this article or borrowing from his fund in the retirement system pursuant to section fifty of this article shall not terminate his membership. Acceptance of such a refund of excess contributions by a member entitled to a vested retirement allowance pursuant to section seventy-six of this chapter shall not terminate his right to such vested retirement allowance nor shall acceptance by him of a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution terminate his right to such vested retirement allowance.

5. When a member who has not attained eligibility for a retirement allowance or a vested retirement allowance has discontinued service with the state or a participating employer for a period of at least thirty consecutive days and has requested termination of membership on a form prepared by the comptroller for such purpose by filing such form with the comptroller. If such person subsequently rejoins the retirement system within five years from the date he discontinued service with the state or a participating employer, such person shall be entitled to every retirement right, benefit and privilege which would have been available to him had he reentered employment on the date of such discontinuance from service.

g. As to any class of persons whose compensation is only partly paid by the state or a participating employer or who are serving on a temporary or other than per annum basis, the comptroller, in his discretion, may:

1. Deny the right to become members, or

2. Make optional the individual entrance of those whose membership otherwise would be mandatory.

§ 41. Allowances for service. a. Generally. Subject to all provisions of law appertaining thereto and to such reasonable rules and regulations as the comptroller shall adopt or amend in pursuance thereof, he shall determine and may modify allowances for service and shall issue prior service certificates and certificates for service in war after world war I. The comptroller, however, shall not allow more than one year of credit for all service rendered in any calendar year.

b. Allowable service. Only the following types of service shall be allowable in computing service credits:

1. Government service.

2. Prior city and county service rendered in a city of the state or in a county within the boundaries of such city, if such city has a pension system allowing credit for prior state and county service.

3. Prior service rendered to an employer before the latter became a participating employer. Such credit shall be allowable immediately upon such employer's becoming a participating employer. The employer for whom the member is working at the time such prior service credit is allowed, shall pay the contribution required to be made by an employer on account of such credit.

4. Civil service in any capacity as an officer or employee of the federal government, or military duty in the armed forces of the federal government and not otherwise creditable, rendered or performed by a member prior to the time he last became a member. The allowance of credit for such service shall be conditioned upon the receipt by the retirement system of all the payments required to be made on account thereof by section forty-two of this article.

5. Civil service rendered as an officer or employee of the federal

government as provided in subdivision d or paragraph four of subdivision c of section forty of this article. The allowance of credit for such service shall be conditioned upon the receipt by the retirement system of all the payments required to be made on account thereof by section forty-two of this article. Except as so provided, employment by the federal government shall not entitle a person to contribute to the retirement system during the period of such employment.

6. Any member may obtain credit for any allowable service:

(a) For which he made contributions, regardless of whether such contributions were returned to him when he left such service, or

(b) Rendered by him while not a member of any retirement system that is actuarially sound and of which the state or municipality thereof is a contributor, provided he makes the contributions required by this article for such credit and renders at least two years of member service after he last became a member.

No credit shall be allowed for service if, but for the member's failure to avail himself of the privilege of transfer within the time and in the manner provided in section forty-three of this article, credit for such service could have been obtained upon transfer from another retirement system pursuant to such section.

c. Purchase of previous member service credit.

1. A member who has not previously been a member may purchase credit at any time for all allowable member service; provided, however, that a member joining the system pursuant to paragraph nine of subdivision c of section forty of this article shall not be permitted to purchase credit for, or otherwise be allowed credit for the previous service upon which his retirement or pension from another pension or retirement system is or would be based. In order to purchase credit, which may be purchased pursuant to this paragraph, the member shall pay into the annuity savings fund, either in a lump sum or in installments, a sum equal to the amount which would have been in such fund to his credit had he actually been a member contributing thereto during the entire period of such previous member service. If such payment be made in installments, the same shall be paid within a period no greater than the number of

months of such member service.

2. A member who, after a previous membership, withdrew all or part of his accumulated contributions shall be credited with all allowable service rendered prior to such withdrawal, provided he:

(a) Renders at least two years of member service after his last withdrawal, and

(b) Redeposits such withdrawn amount in the annuity savings fund, either in a lump sum or in installments; provided, however, that a member joining the system pursuant to paragraph nine of subdivision c of section forty of this article shall not be permitted to purchase credit for, or otherwise be allowed credit for the previous service upon which his retirement or pension from another pension or retirement system is or would be based. If such payment be made in installments, the same shall be paid within a period no greater than the number of months of member service lost by such withdrawal.

d. Credit allowable only if paid for. In the event that a member retires or that any benefit becomes payable because of his membership in the retirement system prior to the completion of all of the payments required to be made by him as a condition precedent to his obtaining credit for member service, the amount of his retirement allowance or such other benefits shall be based only on:

1. The service rendered by him since he last became a member of the retirement system and for which contributions have been paid by him, and

2. Any additional service, all the conditions precedent to the crediting of which have been completely fulfilled by him. However, if the full amount of the payments required to be made by the member is not paid to the retirement system, the amount of service credit shall be proportional to the total amount of the payments made.

e. Waiver of membership requirement in certain cases. In the case of a person in the employ of a participating employer, the requirements in sections sixty and seventy-five of this article that a member must have credit for one or more years of service as a member shall not apply if:

1. Such person became a member within one year after his employer became a participating employer, and

2. He was in the service of such participating employer for the entire year previous to his retirement or death.

f. Restoration of credit in certain cases.

1. A member who has been discontinued from service through no fault of his own and who has withdrawn his accumulated contributions shall have his total service credit restored in full if:

(a) He had less than twenty years of total service credit when he was so discontinued, and

(b) He returns to service within ten years after such discontinuance, and

(c) He redeposits the total amount so withdrawn by him and

(d) His employer elects to and does pay to the pension accumulation fund an amount equal to the reserve required to cover such restoration of credit.

2. Upon such return to service, such member shall contribute to the retirement system as a new member.

3. In the event such a member retires before his employer makes such payment, he may elect to receive his benefit immediately as if full service credit were allowable. He thereupon shall be entitled to receive the full amount of such benefit for such period as the same can be paid from the combined reserve available on his account in the annuity reserve fund and pension reserve fund. When his employer makes such payment, his benefit thereafter shall be continued from the reserve so paid.

4. The provisions of this subdivision f shall be controlling notwithstanding any provision in this article to the contrary.

g. Prior service credit and credit for service in war after world war

I in certain cases. Allowable prior service credit and allowable credit for service in war after world war I shall be granted immediately to:

1. Any member who shall have rendered at least two years of service since he last became a member.

2. Any person who is in the service of a participating employer on the date it approves participation and who becomes a member within one year after such date.

The employer for whom the member is working at the time such prior service credit or credit for service in war after world war I is allowed, shall pay the contribution required to be made by an employer on account of such credit.

- h. Prior service certificates and certificates for service in war after world war I.

1. The comptroller shall issue a certificate, to be known as a prior service certificate, to each member entitled to prior service credit. Such certificate shall certify the amount of such credit which shall be allowed in computing any pension provided for by this article.

2. The comptroller, upon application, shall issue a certificate for service in war after world war I to each member entitled thereto. Such certificate shall certify to service in war after world war I allowable to such member.

3. The comptroller, upon application of a member at any time, or upon his own initiative within one year from the date of issuance of a prior service certificate or a certificate for service in war after world war I may modify any such certificate in accordance with the allowance for prior service or service in war after world war I credit to which the member is shown to be entitled.

4. A member's prior service certificate, certificate for service in war after world war I, or any such certificate as modified, shall become void upon the termination of his membership in the retirement system.

Except as provided by subdivision d of section one hundred two of this article, resumption of membership after such termination shall be without credit for prior service or service in war after world war I.

i. Allowances during leaves of absence without pay.

1. Time during which a member is absent on leave without pay:

(a) Shall not be included in computing prior service.

(b) May be included in computing member service and final average salary only if the head of the department in which such member is employed and the comptroller allow such time for retirement purposes at the time such leave of absence is granted.

(c) Shall be included in computing member service and final average salary in case such a leave of absence was granted, during the period from March first, nineteen hundred forty, until six months after the termination of world war II, to enable the member to enter the service of the federal government or its associated powers, or to engage in war work or defense industries only if:

(1) The fact that such service was rendered is established to the satisfaction of the comptroller, and

(2) Such member shall have notified the comptroller in writing, on or before July first, nineteen hundred forty-seven, or within one year after such leave of absence was granted, that he claims member service credit pursuant to the provisions of this subparagraph (c), and

(3) Such member, within a period not greater than the number of months during which he was on leave of absence, shall pay into:

(aa) The annuity savings fund such amounts as would have been in such fund to his credit had he remained in the performance of his regular duties as a member at the same salary he was receiving when such leave of absence was granted, and

(bb) The pension accumulation fund such amounts as would have been in such fund had he remained in the performance of his regular duties. Such amounts shall be determined by the actuary and shall be sufficient to pay the contribution that the state or a participating employer would have paid for an ordinary death benefit and for that portion of the pension provided for in paragraph two of subdivision a or paragraph two of subdivision b of section seventy-five of this article for service

during such period.

(d) Shall be included in computing member service and final average salary in case such a leave of absence commenced during the period from April first, nineteen hundred sixty-six through June thirtieth, nineteen hundred seventy-four, and was granted for a period of not more than two years to enable the member to perform services as a civilian officer or employee of the Federal government or one of its agencies or a contractor of the United States Agency for International Development engaged to perform the work of such agency, the United Nations, any other international organization of which the United States of America is a member, or a foreign government only if:

(1) The comptroller allows inclusion of such time for retirement purposes at the time such leave of absence is granted, and

(2) Payment during such leave of absence or within one year after the end of such leave of absence is made by the employee into:

(aa) The annuity savings fund of contributions equal to the contributions which the member would have made during the period of such leave of absence had he been performing his regular duties, and

(bb) The pension accumulation fund of a further contribution equal to the contribution which his employer would have made on his behalf during the period of such leave of absence had he been performing his regular duties. The payments required by this item (bb) may be made on the member's behalf by the organization employing him during such leave of absence.

2. In the event that, during a leave of absence granted pursuant to subparagraph (c) of paragraph one of this subdivision i

(a) The position of such member is abolished or made unnecessary through no delinquency or misconduct on his part, such leave of absence shall be deemed to continue until six months after the termination of world war II and such member may continue his contributions and receive credit therefor during such period.

(b) A disability or injury of such member occurs, he shall be entitled only to the return of his contributions.

(c) The death of such member occurs, his beneficiaries or representatives shall be entitled only to the return of his accumulated contributions and the ordinary death benefit, if such benefit would

otherwise be payable.

3. In the event that a member, who made contributions pursuant to such subparagraph (c), is separated from service before he becomes eligible for a retirement allowance or a death benefit, all such contributions and his accumulated contributions shall be returned to him or to his beneficiaries or representatives.

j. Allowance for unused sick leave for members in the employ of the state.

1. In addition to any other service credit to which he or she is entitled, a member who meets the requirements set forth in paragraphs two and three of this subdivision shall be granted one day of additional service credit for each day of accumulated unused sick leave which he or she has at time of retirement for service, but such credit shall not (a) exceed one hundred sixty-five days, (b) be considered in meeting any service or age requirements prescribed in this chapter, and (c) be considered in computing final average salary. However, for an executive branch member designated managerial or confidential pursuant to article fourteen of the civil service law or in the collective negotiating units established by article fourteen of the civil service law designated the professional, scientific and technical services unit, the rent regulation services negotiating unit, the security services negotiating unit, the security supervisors negotiating unit, the state university professional services negotiating unit, the administrative services negotiating unit, the institutional services negotiating unit, the operational services negotiating unit and the division of military and naval affairs negotiating unit and, effective on and after June twenty-seventh, two thousand seventeen for the agency police services unit such service credit limitation provided in subparagraph (a) of this paragraph shall not exceed two hundred days. For a nonjudicial officer or employee of the unified court system not in a collective negotiating unit or in a collective negotiating unit specified in section one of chapter two hundred three of the laws of two thousand four, for employees of the New York state dormitory authority, for employees of the New York state thruway authority, the New York state canal

corporation and the state university construction fund and for employees of the New York liquidation bureau such service credit limitation provided in subparagraph (a) of this paragraph shall not exceed two hundred days. For members who first become members of a public retirement system of the state on or after April first, two thousand twelve, such credit shall not exceed one hundred days.

2. Such service retirement credit shall be granted only to members in the employ of the state who, prior to retirement, were subject to a plan established by law, rule, regulation, written order or written policy which provided for the regular earning and accumulation of sick leave.

3. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to those retiring from service prior to July first, nineteen hundred seventy-four.

k. Credit for certain world war II service. 1. In addition to credit for military service as defined in paragraph one of subdivision thirty-one of section two of this chapter, a member in the employ of the state as of March thirty-first, nineteen hundred seventy, may obtain credit for military service as defined in paragraph two of subdivision thirty-one of section two of this chapter in accordance with the provisions of this subdivision.

2. To obtain such credit a member shall: (a) deposit in the annuity savings fund a sum equal to the product of his normal rate of contribution at time of entry into state service, his annual rate of compensation at that time, and the period of military service being claimed, with regular interest, and (b) deposit in the pension accumulation fund a sum equal to the product of the state's normal contribution rate at the time of the member's entry into such service, his annual rate of compensation at that time, and the period of military service being claimed, with regular interest. Such deposit must be made on or before March thirty-first, nineteen hundred seventy-two, provided, however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed, in

which case such payments must commence no later than March thirty-first, nineteen hundred seventy-two. If the full amount of such payments is not paid to the retirement system, the amount of service credited shall be proportional to the total amount of the payments made.

3. (a) A member who enters the employ of the state on or after April first, nineteen hundred seventy and prior to April first, nineteen hundred seventy-two shall have one year from his date of entry to make application and payment for such service in the manner specified above. The salary base for such an employee shall be his annual rate of compensation at the time of his entry into state service.

(b) A member who reenters the employ of the state on or after April first, nineteen hundred seventy and prior to April first, nineteen hundred seventy-two shall have one year from his date of reentry to make application and payment for such service in the manner specified above. The salary base for such payments shall be either the employee's (i) annual rate of compensation at the time of original entry into such service or (ii) his annual rate of compensation upon reentry into such service, whichever would result in the greater contributions.

4. Such credit for military service shall not be used to increase a service retirement benefit if at the time of retirement such member (a) is retiring from service with less than ten years of total service credit, or (b) is retiring with less than three years of member service rendered subsequent to the date of last entry into state service; upon retirement as specified in (a) or (b), there shall be refunded to such member the amount of such deposit plus accrued interest exclusive of the amount deposited to the pension accumulation fund attributable to death and disability benefits.

5. For the purposes of this subdivision the member's normal rate of contribution in the case of an employee of the state who (a) enters service on or after the date that employee contributions were reduced pursuant to section seventy-a or when no employee contributions were required shall be based on the latest schedule of normal contribution rates in effect for employees of the state, and shall be set as if such schedule had been in effect at the time of his entry into state service,

or (b) transfers into the retirement system shall not be less than the rate the member would have had if all his service, exclusive of that being claimed pursuant to this subdivision, had been rendered as a member of the retirement system.

6. In no event shall credit be granted pursuant to this subdivision if credit is granted for the same period of time pursuant to other provisions of law.

7. Subject to the provisions of paragraph three of this subdivision no application for credit pursuant to the provisions of this subdivision shall be honored if made on or after April first, nineteen hundred seventy-two.

8. A member may direct, upon a form prepared by the comptroller, that his excess contributions be applied toward the payments required by this subdivision. The term excess contributions shall mean accumulated contributions in excess of the amount thereof required to provide a pension or retirement allowance. Appropriate transfers and credits to the annuity savings fund and the pension accumulation fund will be made in the manner set forth in an official regulation adopted by the comptroller for such purpose.

* 1. Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member eligible to purchase credit for previous service with a public employer pursuant to this section or section forty-two of this title or to purchase credit for military service pursuant to article twenty of this chapter, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into

such a payroll deduction agreement and who terminates employment prior to the completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of the agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service -- expires per ch. 627/2007 §22

§ 42. Payments for credit for service for the federal government or certain public authorities or corporations. a. The payments required by this section shall be made by:

1. Members who elect to continue their membership pursuant to subdivision d of section forty of this article even though their government service was discontinued because of the transfer of their offices to the federal government or to any public authority or corporation organized pursuant to the laws of this state, and which is not a participating employer.

2. Officers or employees of the federal government who are contributing members pursuant to paragraph four of subdivision c of section forty of this article.

3. Members who claim service credit pursuant to paragraph four of subdivision b of section forty-one of this article for federal service previously rendered by them.

b. Memberships pursuant to paragraph four of subdivision c of section forty of this article shall be conditioned upon the payment in regular monthly installments into:

1. The annuity savings fund of a proportion of the salary paid to the member in such employment computed upon his rate of contribution, and

2. The annuity savings fund of a sum computed to be sufficient to provide the full cost of the service retirement benefits to which such member could have become entitled as an incident of his membership and

which would have been payable from the pension reserve fund if he were in government service, and

3. The pension accumulation fund of a sum, computed upon the rate of contribution necessary to provide the full cost of all benefits, other than service retirement benefits, to which such member could have become entitled as an incident of his membership if he were in government service.

In the case of such a membership which was last begun or last resumed prior to March twenty-ninth, nineteen hundred forty-four and which now is continuing pursuant to such paragraph four of subdivision c of section forty of this article, and so long as federal service of such member shall continue hereafter without interruption, the member shall make only the payments required by former section fifty-two-c of the civil service law, as amended by chapter seven hundred ninety-four of the laws of nineteen hundred thirty-nine. Federal service covered by such former section fifty-two-c of the civil service law shall not, for the purposes of this paragraph, be deemed to have been interrupted by the rendition of service to the state immediately after such federal service and the return to such federal service not later than four months after the termination of such service to the state.

c. Memberships pursuant to subdivision d of section forty of this article shall be conditioned upon the payment in regular monthly installments into:

1. The annuity savings fund of a proportion of the salary paid to the member in such employment computed upon his rate of contribution, and

2. The pension accumulation fund of a further proportion of such salary to cover the state contribution on his account computed upon the rate of contribution that would have been payable by the state in his behalf had he continued in government service. The payments required to be made by this paragraph two may be made by the member's employer in his behalf.

In the event the office in which a member was employed was transferred

as provided in subdivision d of section forty of this article prior to January first, nineteen hundred thirty-three, such member shall be required to make only the payments provided for in paragraph one of this subdivision c.

d. The granting of service credit pursuant to paragraph four of subdivision b of section forty-one of this article shall be conditioned upon the payment, in a lump sum or in regular monthly installments, over a period no greater than the number of months of service for which such credit is being purchased, into:

1. The annuity savings fund of a sum equal to the amount that would have been in such fund to his credit if he had actually been a member contributing thereto during the entire period of such federal service, computed on the basis of his present salary, regular interest and tables as adopted by the comptroller, and

2. The annuity savings fund of a sum computed to be sufficient to provide the full cost of an annuity at retirement, equal to the pension and pension-providing-for-increased-take-home-pay, if any, which would be provided out of the pension reserve fund if such federal service had been government service, and

3. The pension accumulation fund of a sum, computed upon the rate of contribution necessary to provide the full cost of all benefits, other than service retirement benefits, to which he would have become entitled if such federal service had been government service.

e. The United States government may make the payments required to be made by paragraphs two and three of subdivision b or by paragraphs two and three of subdivision d of this section. The sums so paid by it shall be credited to the pension accumulation fund. Only to the extent that payments are so made by the United States government shall service credit purchased pursuant to this section be used in determining a member's pension for any type of service retirement benefit.

- f. If a member is contributing pursuant to section seventy-one or

seventy-one-a of this article and elects or has elected to pay for federal service under subdivisions b, c or d of this section, his payments into the annuity savings fund shall be computed in an amount sufficient to provide the full cost of an annuity at age fifty-five equal to the service retirement allowance he would receive at age fifty-five for such federal service under the provisions of section seventy-one or seventy-one-a had it been government service.

§ 43. Transfer of members between systems. a. Notwithstanding any other provision of law providing for transfers, any member of any retirement system maintained by the state or a municipality thereof, operating on a sound financial basis and subject to the supervision of the department of financial services of this state may transfer his membership pursuant to this section to the New York state and local employees' retirement system, the New York city board of education employees' retirement system, the New York state teachers' retirement system, the New York city teachers' retirement system or to the New York city employees' retirement system. Any member of the New York state and local employees' retirement system may transfer his membership to any retirement system, other than the hospital retirement system, which is operating on a sound basis and is subject to the supervision of the department of financial services of this state. Any such transfer may be effectuated only if the member has accepted a position in another branch of the state or municipal service which would make it:

1. Impossible for him to continue in the retirement system of which he has been a member, and
2. Possible for him to participate in another such system.

Notwithstanding the foregoing provisions of this subdivision, any employee who would be eligible to avail himself or herself of the provisions of this section but for being on leave of absence status from a prior employment while in his or her present employment, shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section.

Any member of the New York state and local employees' retirement system, however, who was an employee of any city agency at the time service with such agency was legislated to be city service may transfer his membership to the retirement system of such city.

b. In order to effect such a transfer, a member must give notice to the administrative head of the retirement system of which he or she is a member, prior to his or her withdrawal therefrom, of his or her intention to enter such other retirement system. A person so transferring from one retirement system to another shall be deemed to have been a member of the system to which he or she has transferred during the entire period of membership service credited to him or her in the system from which he or she has transferred. Such transferee, however, shall not receive more than three per cent interest on his or her contributions and accumulated contributions unless he or she has continuously been a member in either the system from which or to which he or she is transferring since a date prior to July first, nineteen hundred forty-three. This shall not be construed to prevent a change in the interest rate to such member if the interest rate payable to other members of the system to which he or she has transferred is changed. Any member who heretofore transferred from one retirement system to another shall, commencing with the effective date of chapter nine hundred three of the laws of nineteen hundred fifty-seven, be entitled to the same rights, privileges and benefits, and shall be subject to the same obligations, as a transferee who thereafter transfers. He or she shall receive no credit for prior service, except as hereinafter provided. He or she shall be permitted to deposit in the second retirement system the total amount of his contributions withdrawn from the first retirement system.

c. Upon the request for a transfer of credit, the reserve on such member's benefits, computed as though he had not discontinued membership, shall be determined by the actuary of the first system in the following manner:

1. The total present value of all benefits allowable under the

retirement system as the result of contributions made or to be made by his employer shall be computed.

2. From such total present value there shall be deducted the present value of the future contributions which would be payable by his employer on such member's account had he become a member of the retirement system, subsequent to its establishment, at the age at which he originally entered the service of his employer. The result so obtained shall be considered as the reserve on his account in the first retirement system.

d. Such reserve shall be transferred from the appropriate fund or funds of the first system to the appropriate fund or funds of the second system. Such member, thereupon, shall be given such status and credited with such service in the second retirement system as he was allowed in the first retirement system. Such contributor, notwithstanding any other provision of law, shall on retirement be entitled to a pension based on salary earned during member service in both retirement systems together, pursuant to the statutory requirements of the second retirement system.

e. The provisions of former subdivision e of this section, as originally enacted by chapter four hundred eighty-three of the laws of nineteen hundred forty-five and as codified in such former subdivision e by chapter eight hundred forty-one of the laws of nineteen hundred forty-seven, shall apply only to memberships transferred prior to July first, nineteen hundred forty-nine. Section one hundred seventeen of this article shall apply to the provisions of this subdivision insofar as such provisions relate to such memberships.

f. 1. A "New York city member", as defined in subdivision twenty of section two hundred forty-three of the military law, who shall transfer to another retirement system pursuant to this section shall be given credit, upon such transfer, for the period of military duty to which such member would have been entitled pursuant to such subdivision twenty if he had remained, until the time of death or retirement, in the retirement system from which he shall so transfer. The amount of reserves to be transferred under this section for such credit shall be

computed in accordance with this section, shall include pension reserves for such military duty, and shall be credited by the retirement system to which the member shall transfer in accordance with the provisions of such system governing credit for service in world war II, and the city of New York, or the authority, by which such member is employed immediately prior to the transfer, shall pay to the retirement system the amount of the reserve to be transferred on account of such military service.

2. Any retirement system from which a member shall transfer pursuant to this subdivision shall have the right to require reasonable proof of military service, pay status, and any other information relevant to eligibility for such transfer of credit for military duty.

3. The provisions of this subdivision f shall apply only to a "New York city member" who has rendered service as an officer or employee of the city of New York (or any agency thereof) or public corporation, the officers or employees of which are eligible for membership in a pension or retirement system maintained by such city, including performance of such military duty, for at least fifty per centum of the time between his commencement of such service and the date upon which he has attained or shall attain age fifty-five.

h. Notwithstanding any other provisions of the law, a former member of the New York state teachers' retirement system who holds membership in the New York city teachers' retirement system on the effective date of this act and who would have been entitled to transfer service credit to such latter retirement system pursuant to this section had his membership in the former retirement system not terminated, due to no negligence on the part of the member, may have his transfer rights under this section restored by depositing, within one year of the effective date of this act, in the former retirement system an amount equal to the contributions withdrawn from such system with regular interest thereon.

j. This subdivision shall apply only to individuals who, subsequent to vesting in a retirement system, transfer to a second retirement system whose governing laws require a greater number of years of credit for

vesting than those of the first system, and who, upon such transfer, do not have the number of years of service credit that is ordinarily required to vest in such second retirement system.

1. Upon transfer, the number of years of service credit required for the transferred individual to attain vested rights in the second retirement system shall be the same as the number of years of service credit required, under applicable law, for vesting in the first retirement system.

2. In the event that an individual covered by this subdivision makes application to retire from such second system prior to attaining the amount of service credit that would otherwise be necessary to vest in such second retirement system, and such individual is otherwise eligible to retire from such second system, the application shall be granted, and benefits shall be calculated on the basis of the actual amount of service credit the individual has accrued at the time of retirement. Transferred service credit shall not be creditable under any plan in the second retirement system that it would not otherwise be creditable under.

k. Notwithstanding any other provision of this section, any member of the New York state and local employees' retirement system or the New York city teachers' retirement system who retired from service from either the New York city employees' retirement system or the New York city board of education retirement system as a member of the career pension plan maintained by such system and who, but for the fact that he or she retired, would be eligible for transfer and who has not, in fact, received a pension payment from such system shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section. In such event, the application for retirement shall be deemed to have been rescinded and the retirement system from which the service shall be transferred shall transfer the appropriate reserves as provided by this section, provided, however, that with respect to transfers pursuant to this subdivision which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, except for the

purposes of providing the benefits, if any, of subdivision four of section five hundred twenty-two of the education law, no determination of a reserve pursuant to subdivision c of this section or transfer thereof pursuant to the first sentence of subdivision d of this section shall be required in the case of any transfer pursuant to this subdivision with less than ten years of credited service with the transferring retirement system at the time the transfer is initiated. With respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, the transfer of a pension reserve shall be required when the member is transferring ten or more years of credited service from a public retirement system of the state to any other public retirement system of the state, excluding any transfers within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system. Notwithstanding the provision of this subdivision or any other provision of law, an individual who transfers pursuant to this subdivision shall not be required to render any minimum period of service following transfer in order to be eligible to receive the full benefit provided hereunder. Notwithstanding the foregoing, a retiree covered by either the career pension plan or the fifty-five-year-increased-service-fraction plan who has received a pension payment or payments from such system shall be eligible for the provisions of this subdivision upon payment, to the retirement system from which the pension payment or payments were made, of an amount equal to such pension payment or payments. After such payments and the pension reserve, in the case of a member who transfers in ten or more years of credited service, except when transferring within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system, are received, such person shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section.

1. Notwithstanding any other provision of law to the contrary, with respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand

twenty-three that amended this subdivision, except for the purposes of providing the benefits, if any, of subdivision four of section five hundred twenty-two of the education law, no determination of a reserve pursuant to subdivision c of this section or transfer thereof pursuant to the first sentence of subdivision d of this section shall be required in the case of any transfer pursuant to this section with less than ten years of credited service with the transferring retirement system at the time the transfer is initiated. With respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, the transfer of a pension reserve shall be required when the member is transferring ten or more years of credited service from a public retirement system of the state to any other public retirement system of the state, excluding any transfers within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system. For the purpose of giving the transferring member such status and crediting such service in the second retirement system as such member was allowed in the first retirement system in those cases to which this subdivision shall apply, the transfer shall be deemed complete upon receipt by the second retirement system of:

1. a statement from the first retirement system of the transferring member's date of membership in the first retirement system, tier status, service credited to such membership being transferred, and such other information as the second retirement system may require to effectuate the transfer;

2. such member's accumulated contributions from the first retirement system, if same had not been previously withdrawn, or notice from the first retirement system that such member had no accumulated contributions, or notice from the first retirement system that such member's accumulated contributions had been withdrawn and the amount thereof and, as applicable, receipt from such member of such member's accumulated contributions and interest; and

3. the pension reserve in the case of a member who transfers in ten or

more years of credited service, except when transferring within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system.

§ 44. Certain local pension system credit for compensation received for constitutional convention service. a. Notwithstanding anything to the contrary contained in this chapter or any other general or local law, charter or code, any person who while a delegate, officer or employee of the convention to revise and amend the constitution of the state in the year nineteen hundred sixty-seven was also a member of a local pension system shall be entitled to elect to have the total salary or wages paid to such delegate, officer or employee for such convention service cumulatively added to the salary or wages otherwise credited to such person for such calendar year in the local pension system for all purposes. Such election shall be made in writing to this retirement system and such local system on or before July first, nineteen hundred seventy.

b. Upon such election, the actuary of the state employee's retirement system shall determine the total value of all reserves to the credit of such member in the state employees' retirement system as a result of contributions made by the state and his contributions to the state employees' retirement system for such service, if any, and shall transfer the total amount thereof to the local pension system in the manner provided by section forty-three of the retirement and social security law.

c. After such deposit and transfer, the actuary of the local pension system shall determine the total amount which would have been required to be paid into the appropriate funds of the local pension system by both the member and the municipality had such service been rendered to the municipality. From such total amount there shall be deducted the total amount of contribution and reserves transferred as provided in subdivision b of this section. Any deficiency in the result so obtained shall be paid by the member into the appropriate account and funds in

the local pension system.

d. Thereafter, and upon payment of any additional contributions that may be required by subdivision c of this section, such member shall be entitled to all the rights, privileges, immunities, benefits, refunds, increases, advances, insurance, pension, annuities, retirement allowances, death benefits and options for such service under the local pension system in the same manner and to the same extent as if such service had been creditable under such local pension system. Such member who at the time of such service as a delegate was a member of both the state employees' retirement system and of a local pension system and who later transferred, pursuant to section forty-three of this chapter the total amount of his contributions and reserves from the state employees' retirement system to such local system, shall in computing his final average salary in such local system be entitled to credit for the year nineteen hundred and sixty-seven for his total compensation received from the state, from the convention and from his local employer. Provided, however, that service as such delegate, officer or employee shall not be used in computing the member's length of service for the purpose of determining the amount of his retirement allowance.

e. The provisions of this section shall be available only to those members of a local pension system whose eligibility for retirement is based upon attainment of a specified age, or thirty or more years of service.

f. The provision of this section shall be controlling, notwithstanding any provision of this chapter or any general, special, local law or city or village charter code, ordinance, resolution, rule or regulation to the contrary.

§ 45. Right to membership. Upon the employment of any employee whose right to membership in a public retirement system of the state, which for purposes of this section shall include any public retirement system other than the New York state teachers' retirement system, has been made optional by the head of the retirement system involved, the employer

shall inform the employee in writing of the right to join the system. Each such employee shall acknowledge the receipt of such notice by signing a copy thereof and filing it with such employer; provided, however, the failure to inform such employee shall not in any way be construed to waive the requirement that membership for such an employee commences only when an application for membership is filed with the system, nor shall it be construed to waive any of the eligibility requirements for previous service credit.

TITLE 6

LOANS, REFUNDS AND WITHDRAWALS

Section 50. Loans.

51. Refunds and withdrawals.

§ 50. Loans. a. The following may borrow from the retirement system:

1. Any member in government service or on leave of absence who has credit for at least one year of member service, provided the comptroller shall approve such loan. The total of any such loans shall not exceed seventy-five per centum of his accumulated contributions.

2. Any member absent on military duty, as defined in section two hundred forty-three of the military law. The amount of any such loan, however, shall not exceed the total of his accumulated contributions less one dollar. Such nominal sum of one dollar shall be left in the annuity savings fund to his credit as a token of his continuing membership. Any member who:

(a) While absent on such military duty and prior to October first, nineteen hundred forty-six, withdrew his accumulated contributions, and

(b) Re-entered into government service within one year after the termination of such military duty, may redeposit and repay such withdrawn amount, with interest thereon at the rate of six per centum per annum to October first, nineteen hundred forty-six, and thereafter at the general rate or rates fixed by the comptroller pursuant to this section. In such event such member shall be entitled to the same status,

rights and privileges as if he had left the nominal sum of one dollar in the annuity savings fund as a token of his continuing membership.

b. Repayment of loans.

1. An amount so borrowed, together with interest on any unpaid balances thereof, shall be repaid in equal installments which shall be deducted from the member's compensation. Such additional contributions shall be in such amount as the comptroller shall approve. They shall, however, be at least equal to the member's normal contribution to the retirement system, or ten dollars per month, whichever is lower.

2. In the case of repayment by a member on leave of absence without pay, however, any such loan shall be repaid in such installments of principal and interest as the comptroller shall determine.

c. The comptroller, at any time, while the borrowing member is in government service or on leave of absence therefrom, may accept payments on account of any loan in addition to the installments fixed for repayment thereof.

d. The rate of interest payable upon loans made under this section shall be fixed by the comptroller. He shall have power, from time to time and at any time, to decrease such rate to not less than regular interest or to increase the same to not more than six per centum per annum. Any such decrease or increase shall apply, from the effective date thereof, to unpaid balances or loans outstanding on such date and to new loans made thereafter. The comptroller shall adjust any prepaid and unearned interest on balances of loans outstanding as of the effective date of a change in the interest rate.

e. The borrowing member's annuity savings account shall not be reduced by the loan obtained but a subsidiary record shall be maintained reflecting the outstanding balance on such loan, as well as the allocation of the payroll deductions to principal and interest. Upon the member's withdrawal of his accumulated contributions or retirement, the balance due on his loan shall be deducted from the amount to his credit

at such time in the annuity savings fund. Upon the death of the member prior to the loan being fully insured, that portion thereof which is uninsured, shall similarly be deducted from the amount to his credit at the time of his death in the annuity savings fund.

f. In the case of any benefit wherein the amount of pension will be determined, in part, by the amount of annuity, such annuity shall be computed upon the basis of accumulated contributions as if there were no loan or no additional contributions. The resulting retirement allowance shall then be reduced by the actuarial equivalent of the present value of any outstanding loan.

g. Insurance of loans. Each loan made pursuant to this section shall be insured against the death of the member. Such insurance shall be provided by the comptroller through the retirement system upon the following basis:

1. Amount of insurance. Each loan made pursuant to this section shall be insurable in its entirety and shall be insured thirty days after the making thereof.

2. Premiums. In March of each year, premiums at the rate established by the directive of the comptroller, in effect during such year, shall be charged to the member's annuity savings account. In pro-rating premiums, the major part of a month shall be considered as a whole month. If the member during this period withdraws his contributions, dies or retires, the premium to be charged at the time of such withdrawal, death or retirement shall be based on the number of months which had elapsed since the beginning of the fiscal year.

3. Loans heretofore made. Each loan made pursuant to law prior to the effective date of this section as hereby amended, shall be insured from that date upon the terms and conditions set forth in this section, as hereby amended. Premiums after such date shall be deducted in accordance with the provisions of this section.

4. Funds. The comptroller is authorized to establish such funds as may

be necessary to carry out the provisions of this subdivision g.

5. Power of comptroller. The comptroller, in his discretion and at the end of any fiscal year, may increase or reduce the premium; modify the terms and conditions of coverage or discontinue the insurance of loans.

6. Continuity of insurance not obligatory. This subdivision g shall not impose any obligation whatsoever upon the retirement system or any employer to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms and conditions.

§ 51. Refunds and withdrawals. a. A member under age sixty may withdraw his accumulated contributions if he has been separated from service for a period of at least fifteen days.

b. A member sixty years of age or over, may elect, not later than fifteen days after filing his application for retirement, or not later than thirty days after his mandatory retirement has become effective by operation of law, to withdraw his accumulated contributions in lieu of a retirement allowance, provided that he

1. Has had less than five years of total service credit, or

2. Last became a member before April sixth, nineteen hundred forty-three, or

3. Is eligible for an annual retirement allowance which, without optional modification, amounts to less than three hundred dollars.

c. The following contributions or additional contributions shall be treated as excess contributions which, together with regular interest and special interest thereon, may be withdrawn by a member at any time prior to retirement, or if not so withdrawn, shall be used to purchase additional annuity:

1. Contributions paid by a member in order to receive credit for

service in war after world war I, as defined in section two of this article, not including, however, contributions required by subdivision k of section forty-one of this article.

2. Additional contributions paid by a member pursuant to section eighty, eighty-nine-a or eighty-nine-b and where, as a result of a change in his employment, such additional contributions would not provide an additional pension allowance for service for which such additional contributions were made.

3. Such other contributions to the annuity savings fund as may be determined by regulation of the comptroller to be excess and subject to such withdrawal.

d. If a member dies before the effective date of his retirement, his accumulated contributions shall be paid to his estate or to the person nominated by him in a written designation duly executed and filed with the comptroller. In the event such a designated beneficiary does not survive him, or if he shall not have so designated a beneficiary, such contributions shall be payable to the deceased member's estate or as provided in section one thousand three hundred ten of the surrogate's court procedure act. Such member, or after his death, the person so nominated by him may file with the comptroller a written designation, duly executed providing that such contributions shall be paid in the form of an annuity to such person so nominated. Such designation shall be filed prior to or within ninety days after the death of the member. The amount of such annuity shall be determined as the actuarial equivalent of such accumulated contributions on the basis of regular interest and the age of the person so nominated as of the date of such member's death.

dd. Notwithstanding the provisions of section ninety of this article, accumulated contributions shall be payable in the manner provided by subdivision d or e of this section in the case of a retired member who shall die before attaining age seventy where:

1. His application for retirement became effective prior to his death,

and

2. No optional election by him was in effect at the time of his death, or he had made and filed a valid election to receive his retirement allowance without optional modification, and

3. He died within the period of thirty days immediately after his retirement became effective.

The amount of the accumulated contributions so payable under this subdivision shall be reduced by the amount of any annuity payment that may have been paid on account of such retirement.

The provisions of this subdivision shall apply in any case where death occurred on or after January first, nineteen hundred fifty-four.

e. A member, or after his death, the person nominated by him to receive his accumulated contributions, may elect to receive the actuarial equivalent of the annuity specified in subdivision d of this section in the form of a reduced annuity, payable for life, with the further proviso that if the person so nominated should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to such beneficiary's estate or to such person as such member or his nominee shall have designated prior to his death. Such election shall be made prior to or within ninety days after the death of the member. Such designation of a beneficiary to receive such lump sum may be made or changed at any time by the person who made it. Such election, designation or change shall be made by a writing duly executed and filed with the comptroller. If the person nominated to receive such lump sum does not survive the member's beneficiary, such lump sum, if any, shall be payable to the estate of the member's beneficiary or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

TITLE 7

DEATH BENEFITS AND DISABILITY RETIREMENT

Section 60. Ordinary death benefit.

- 60-a. Guaranteed ordinary death benefit payable upon death of state employees.
- 60-b. Guaranteed ordinary death benefit for participating employers.
- 60-c. Death benefit for vested members who die prior to retirement.
- 61. Accidental death benefit.
- 61-a. Payment of interest on death benefits and accumulated contributions.
- 62. Ordinary disability retirement.
- 63. Accidental disability retirement.
- 63-a. Performance of duty disability retirement.
- 63-b. Performance of duty disability retirement; certain county employees.
- 63-c. Disability benefits.
- 63-d. Uniformed court officers and peace officers; certain disabilities.
- 63-e. Retirement for disability incurred in performance of duty; Westchester county district attorney investigators.
- 63-f. Disability benefits; Westchester county district attorney investigators.
- 63-g. Performance of duty disability retirement.
- 63-g*2. Disability benefits; certain disabilities.
- 63-h. Certain impairments of health; presumption.
- 63-i. Death benefits for fire marshals employed by Nassau county.
- 64. Payment of both pensions for accident and other benefits prohibited.

§ 60. Ordinary death benefit. a. An ordinary death benefit plus the reserve-for-increased-take-home-pay shall be payable upon the death of a member who:

1. Died before the effective date of his retirement, and

2. Was in service upon which his membership was based when he died or was on the payroll in such service and paid within a period of twelve months prior to his death or within a period of twenty-four months prior to his death if on leave of absence as set forth below and had, unless his service was based on seasonal employment, not been otherwise gainfully employed since he ceased to be on such payroll except while on leave of absence which was granted in accordance with the provisions of subdivision i of section forty-one of this chapter and which commenced during the period from April first, nineteen hundred sixty-six through June thirtieth, nineteen hundred seventy-four, to perform services as a civilian officer or employee of the federal government or one of its agencies or a contractor of the United States Agency for International Development engaged to perform the work of such agency, the United Nations, any other international organization of which the United States of America is a member, or a foreign government, and

3. Has credit for one or more years of service while actually a member. This requirement of one or more years of service while actually a member shall not be applicable to the reserve-for-increased-take-home-pay and shall be subject to waiver as provided in subdivision e of section forty-one of this article.

An ordinary death benefit shall not be payable in any case in which an accidental death benefit is payable provided, however, that where payments made pursuant to section sixty-one of this chapter on account of an accidental death benefit, computed without reduction pursuant to section sixty-four of this article, and the reserve-for-increased-take-home-pay total less than the ordinary death benefit and the reserve-for-increased-take-home-pay that would have been computed and made payable pursuant to this section sixty in the case of ordinary death, the difference shall be paid to the beneficiary or member's estate to which the ordinary death benefit and reserve-for-increased-take-home-pay would have been paid.

Provided further, that where the beneficiary or beneficiaries designated to receive the accidental death benefit pursuant to section sixty-one of this article is the same beneficiary or beneficiaries

designated by the member to receive the ordinary death benefit, then, and in that case, the beneficiary or beneficiaries may elect to receive, in a lump sum, the value of the ordinary death benefit and the reserve-for-increased-take-home-pay, if any, that would have been computed and made payable pursuant to the provisions hereof in case of ordinary death, in lieu of any other benefit.

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an ordinary death benefit and/or guaranteed ordinary death benefit, a member shall be considered to have died while in service upon which his or her membership was based provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five. Provided, further, that any such member ordered to such active duty with the armed forces of the United States or in service in the uniformed services who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

aa. Notwithstanding the provisions of section ninety of this article, an ordinary death benefit plus the reserve-for-increased-take-home-pay shall be payable to the beneficiary designated in a valid election of "Option One-half", if any, or in the manner provided by subdivisions c, d, or e of this section, in any other case, if a retired member shall die where:

1. His application for retirement became effective prior to his death, and

2. No optional election by him was in effect at the time of his death, or he had made and filed a valid election to receive his retirement allowance without optional modification or under "Option One-half", and

3. He died within the period of thirty days immediately after his retirement became effective.

The amount of the ordinary death benefit so payable under this subdivision shall be reduced by the amount of any pension payment that may have been paid on account of such retirement.

The provisions of this subdivision shall apply in any case where death occurred on or after January first, nineteen hundred fifty-four.

b. The ordinary death benefit plus the reserve-for-increased-take-home-pay shall be payable from the pension accumulation fund. The ordinary death benefit shall not exceed the compensation earnable by such member during his last twelve months of service while a member. The amount thereof shall be computed by multiplying one-twelfth of such compensation by the number of years, not to exceed twelve, of his total service credit. Provided, however, that where the member has more than twelve years of total service credit and where his death occurs on or after July first, nineteen hundred sixty, and on or before June thirtieth, nineteen hundred seventy-four, there shall be added to such ordinary death benefit one-twenty-fourth of such compensation multiplied by the number of years, not to exceed twenty-four, but exclusive of the first twelve, of his total service credit. Provided, further, that where a member, qualified under subdivisions a or aa of this section, would have been entitled to a service retirement benefit at the time of his death and where his death occurs on or after July first, nineteen hundred sixty-three and on or before June thirtieth, nineteen hundred seventy-four, the amount payable under this section shall be equal to the pension reserve that would have been established had the member retired on the date of his death, unless the ordinary death benefit and the reserve-for-increased-take-home-pay, hereinabove provided for, shall be in excess thereof.

In the case of a retired member who has returned to service, total service credit, for purposes of this section only, shall include service rendered prior to his retirement, provided that he shall have rendered

at least one year of service since he last became a member, or provided he shall have rendered since he returned to public service one year of service during which he elected pursuant to subdivision a of section one hundred one of this article not to be restored to membership in the retirement system. The member's accumulated contributions shall be refunded in accordance with subdivision d of section fifty-one of this article.

bb. (a) An ordinary death benefit shall be payable upon the death of a member who was in the employ of the state during its participation under section seventy-five-a of this chapter or of a participating employer while such employer is participating under the provisions of section seventy-five-b of this chapter.

The provisions of this subdivision bb shall apply in any case where death occurred on or after August nineteenth, nineteen hundred sixty-six and prior to July first, nineteen hundred seventy-four.

(b) The ordinary death benefit shall be payable from the pension accumulation fund. Such ordinary death benefit shall be based on compensation earnable by such member during his last twelve months of service while a member. The amount thereof shall be computed by multiplying one-twelfth of such compensation by the number of years, not to exceed thirty-six, of his total service credit. Provided that where a member, qualified under subdivisions a and aa of this section would have been eligible for service retirement at the time of his death and where his death occurs on or after August nineteenth, nineteen hundred sixty-six and prior to July first, nineteen hundred seventy-four, the amount payable under this section shall be equal to the pension reserve that would have been established pursuant to section seventy-five-c had the member retired on the date of his death, unless the ordinary death benefit hereinabove provided for shall be in excess thereof. The benefit provided herein shall be in lieu of the ordinary death benefit presently payable under other provisions of this chapter, unless the benefit under such other provisions shall be in excess of those provided for herein, in which event the greater benefit shall be payable.

(c) In the case of a retired member who has returned to service, total service credit, for purposes of this subdivision only, shall include

service rendered prior to his retirement, provided that he shall have rendered at least one year of service since he last became a member, or provided he shall have rendered since he returned to public service one year of service during which he elected pursuant to subdivision a of section one hundred one of this article not to be restored to membership in the retirement system. The member's accumulated contributions shall be refunded in accordance with subdivision d of section fifty-one of this article.

c. The ordinary death benefit and the reserve-for-increased-take-home-pay shall be paid to the member's estate or to such person as he shall have nominated to receive such ordinary death benefit. To be effective, such a nomination must be in the form of a written designation, duly acknowledged and filed with the comptroller for this specific purpose. In the event such a designated beneficiary does not survive him, or if he shall not have so designated a beneficiary, such benefit shall be payable to the deceased member's estate or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

d. The member, or on the death of the member, the person nominated by him to receive his death benefit, may provide, by written designation, duly executed and filed with the comptroller, that such death benefit and the reserve-for-increased-take-home-pay shall be paid in the form of an annuity. Such designation shall be filed prior to or within ninety days after the death of the member. The amount of such annuity shall be determined as the actuarial equivalent of such death benefit and reserve on the basis of the age of such beneficiary at the time of the member's death and regular interest.

e. A member, or after his death, the person nominated by him to receive his ordinary death benefit, may elect to receive the actuarial equivalent of the annuity specified in subdivision d of this section in the form of a reduced annuity, payable for life, with the further proviso that if the person so nominated should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to such beneficiary's estate

or to such person as such member or his nominee shall have designated prior to his death. Such election shall be made prior to or within ninety days after the death of the member. Such designation of a beneficiary to receive such lump sum may be made or changed at any time by the person who made it. Such election, designation or change shall be made by a writing duly executed and filed with the comptroller. If the person nominated to receive such lump sum does not survive the member's beneficiary, such lump sum, if any, shall be payable to the estate of the member's beneficiary, or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

f. 1. Notwithstanding any provision of paragraph three of subdivision a of this section to the contrary and in lieu of the ordinary death benefit payable pursuant to subdivisions b or bb of this section or the guaranteed ordinary death benefit payable pursuant to section sixty-a of this article, a special death benefit shall be payable upon the death in service of a security services unit member or parkway police unit member or security supervisors unit member who is subject to the provisions of this article, and who has credit for ninety or more days of service while actually a member of the retirement system.

2. The special death benefit provided under this section to the beneficiary of such security services unit member or parkway police unit member or security supervisors unit member shall be:

(a) in the case of a security services unit member or parkway police unit member or security supervisors unit member who was employed by the state on or before the date this act takes effect, equal to three times the member's compensation earnable during his last twelve months of service as a member or, if he had not completed twelve months of service prior to the date of his death, three times the compensation he would have earned had he worked for twelve months prior to such date, in either case raised to the next higher multiple of one thousand dollars. If, however, the ordinary death benefit payable pursuant to subdivision b or bb of this section upon the death of such a security services member or parkway police unit member or security supervisors unit member would have exceeded the special death benefit payable pursuant to this subdivision, the special death benefit payable in the event of death of

such a member prior to July first, nineteen hundred seventy-one shall be equal to that benefit which would have otherwise been payable pursuant to subdivision b or bb of this section notwithstanding any provision of paragraph one of this subdivision to the contrary; or

(b) in the case of a security services unit member or parkway police unit member or security supervisors unit member who enters service after the date this act takes effect, equal to three times the member's compensation earnable during his last twelve months of service as a member or, if he has not completed twelve months of service prior to the date of his death, three times the compensation he would have earned had he worked for twelve months prior to such date in either case raised to the next higher multiple of one thousand dollars.

3. For the purpose of this subdivision: (a) the terms "security services unit member", "parkway police unit member", and "security supervisors unit member" shall mean a member in the employ of the state in the collective negotiating unit designated as the security services unit or parkway police unit or security supervisors unit established pursuant to article fourteen of the civil service law; and

(b) the term "death in service" shall include the death of such a member who dies while off the payroll provided he or she (i) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (ii) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (iii) had credit for one or more years of continuous service since he last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to

have satisfied the minimum service requirement.

4. The provisions of this subdivision shall apply in any case where death occurs on or after the date this subdivision takes effect and prior to July first, nineteen hundred seventy-four.

§ 60-a. Guaranteed ordinary death benefit payable upon death of state employees. a. Upon the death in service of a member who was in the employ of the state on March thirty-first, nineteen hundred sixty-nine, and whose beneficiary was eligible for the ordinary death benefit pursuant to section sixty of this chapter, or would have been eligible had the state employee had one year or more of service, such beneficiary shall receive an ordinary death benefit payable pursuant to section sixty, or, in lieu of such ordinary death benefit, the benefit payable pursuant to this section, whichever is greater.

aa. Upon the death in service of a member on or after April first, nineteen hundred seventy, who (1) entered or reentered the employ of the state after March thirty-first, nineteen hundred sixty-nine and prior to April first, nineteen hundred eighty-five, and was in such employ on March thirty-first, nineteen hundred eighty-five, (2) had not attained age sixty at the date of such entrance into such service, (3) had rendered ninety or more days of continuous state service during the fifteen month period immediately preceding death, (4) last joined or rejoined a public retirement system of the state or a municipality thereof before July first, nineteen hundred seventy-three, and (5) whose beneficiary was eligible for the ordinary death benefit pursuant to section sixty of this chapter, or would have been eligible had the employee had one year or more of state service, such beneficiary shall receive an ordinary death benefit payable pursuant to section sixty of this chapter, or, in lieu of such ordinary death benefit, the benefit payable pursuant to this section, whichever is greater.

b. The guaranteed ordinary death benefit provided under this section to such a beneficiary shall be three times the compensation earnable by the state employee during his last twelve months of service as a member,

raised to the next higher multiple of one thousand dollars, but in no event, greater than twenty thousand dollars. Where a member dies before rendering one year of service, the death benefit pursuant to this subdivision shall be three times the compensation that the member would have earned had he worked for twelve months prior to the date of his death raised to the next higher multiple of one thousand dollars, but in no event, greater than twenty thousand dollars.

c. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for at least one year of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

d. The provisions of this section shall apply in any case where death occurs on or after the date this section becomes law and prior to July first, nineteen hundred seventy-four.

§ 60-b. Guaranteed ordinary death benefit for participating employers.

(a) Pursuant to the provisions of section thirty-three of this article, a participating employer may elect to provide a guaranteed ordinary death benefit upon the death in service of its employees who (i) meet

all the requirements of section sixty of this article except that contained in paragraph three of subdivision (a) thereof, and (ii) last entered or reentered the employ of a participating employer prior to April first, nineteen hundred eighty-five, and were in such employ on March thirty-first, nineteen hundred eighty-five, and (iii) last joined or rejoined a public retirement system of the state or a municipality thereof before July first, nineteen hundred seventy-three, and (iv) had not attained age sixty at the date of such entrance into such service, and (v) had rendered ninety or more days of continuous service in the service of such participating employer during the fifteen month period immediately preceding death. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

(b) The guaranteed ordinary death benefit provided under this section to the beneficiary of such employee shall be three times the compensation earnable by him during his last twelve months of service as a member, raised to the next higher multiple of one thousand dollars, but in no event greater than twenty thousand dollars. Where such employee dies before rendering one year of service, the death benefit pursuant to this section shall be three times the compensation that the

member would have earned had he worked for twelve months prior to the date of his death, raised to the next higher multiple of one thousand dollars, but in no event greater than twenty thousand dollars.

(c) The beneficiary shall receive the benefits provided by this section or those provided by section sixty of this article, whichever are greater.

(d) The provisions of this section shall apply in the case of death occurring on or after this section becomes law and prior to July first, nineteen hundred seventy-four.

§ 60-c. Death benefit for vested members who die prior to retirement.

a. A death benefit plus the reserve-for-increased-take-home-pay shall be payable upon the death of a member who:

1. Died before the effective date of retirement while a member of the retirement system;

2. Had at least ten years of credited service at the time of death;
and

3. Died at a time and in a manner which did not result in the eligibility of the member's estate or any beneficiary to receive any other retirement system death benefits on account of such death.

b. Benefits provided under this section shall be payable to the member's estate or the beneficiary or beneficiaries nominated by the member on a designation of beneficiary form filed with the comptroller pursuant to section sixty of this title, who would have been eligible to receive benefits if benefits had become payable pursuant to such section.

c. The amount of the benefit payable pursuant to this section shall be equal to one-half of the amount of the ordinary death benefit which would have been payable pursuant to section sixty of this title had the member's death occurred on the last day of service upon which membership was based.

§ 61. Accidental death benefit. a. An accidental death benefit and the reserve-for-increased-take-home-pay shall be payable upon the death of a member if, upon application filed within five years after the death of such member, the comptroller shall determine, on the basis of the evidence, that such member:

1. Died before the effective date of his retirement, as the natural and proximate result of an accident sustained in the performance of duty in the service upon which his membership was based, and

2. Did not cause such accident by his own willful negligence, and

3. At the time of such accident was actually a member of the retirement system.

Where the claimant is an infant or is mentally or physically incapacitated, and because of the aforesaid disability application for accidental death benefit is not filed within the time specified by this subdivision, or where a person entitled to make a claim dies before the expiration of the time so specified, the comptroller in his discretion may grant leave to file such application within a reasonable time after the expiration of the time specified in this subdivision.

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or in service in the uniformed services on or after June fourteenth, two thousand five.

b. The accidental death benefit and the reserve-for-increased-take-home-pay shall be payable from the pension reserve fund. Such accidental death benefit shall consist of a pension of one-half of the member's final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this article. The reserve-for-increased-take-home-pay shall be paid in a lump sum to those entitled thereto in accordance with subdivision d of this section. The member's accumulated contributions shall be refunded in accordance with subdivision d of section fifty-one of this article.

c. The accidental death benefit payable pursuant to this section on account of a member whose:

1. Service was on other than a full-time basis at the time of his death, and

2. Death was the natural and proximate result of an accident sustained while a member and while in the performance of duty, shall be equal to the benefit that would be paid on account of such member were his service on a full-time basis.

d. The pension on account of accidental death and the reserve-for-increased-take-home-pay shall be paid to:

1. The member's widow or widower to continue during his or her widowhood. If he or she shall leave no widow or widower, or if his or her widow or widower shall die or remarry before all his or her children shall have attained age eighteen or sooner die, then to

2. His or her child or children under age eighteen, divided in such manner as the comptroller, in his discretion, shall determine. Such pension shall continue as a joint and survivor pension until every such child shall have attained age eighteen or sooner die. If no widow or widower or child under age eighteen shall survive such member, at the time of his or her death, then to

3. His or her dependent father or dependent mother, as he or she shall have nominated by written designation duly acknowledged and filed with the comptroller. Such pension shall continue for the life of the parent so designated. If there be no such designation, then to

4. His or her dependent father or dependent mother, as the comptroller, in his discretion, shall determine. Such pension shall continue for the life of the parent so selected.

§ 61-a. Payment of interest on death benefits and accumulated contributions. Interest shall accrue against unpaid accidental and ordinary death benefits plus the reserve-for-increased-take-home-pay from the date of death of a member until payment thereof is made. Interest shall accrue against accumulated member contributions from the date of death until payment thereof is made, where no death benefit is payable on account of such death. An application for the payment of such benefits must be made in writing on a blank provided by the comptroller for such purpose. Interest against the unpaid benefit shall be at the rate provided for by subdivision one of section three-a of the general municipal law.

§ 62. Ordinary disability retirement. a. Application for an ordinary disability retirement allowance for a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. Some person acting on behalf of and authorized by such member.

aa. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. Actually be in service upon which his membership is based, or, have been discontinued from service, either voluntarily or involuntarily, for not more than ninety days, providing the member was disabled prior to such discontinuance.

After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for ordinary disability, he shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

b. Upon retirement for ordinary disability one of the following retirement allowances shall be payable:

1. If the member has attained age sixty when such retirement becomes effective, his or her retirement allowance shall be equal to that which he or she would receive in the case of superannuation retirement, unless the member is enrolled in a plan provided under section seventy-a, seventy-one-a or seventy-five of this article, in which case the benefit shall be calculated in the manner described in clause two of subparagraph (c) of paragraph two of this subdivision.

2. If the member has not attained age sixty when such retirement becomes effective, his retirement allowance shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

(c) A pension computed in accordance with whichever of the following provides the greater benefit:

(1) A pension which, together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal ninety per centum of one-seventieth of his final average salary multiplied by the number of years of his total service credit which formula shall be used only if the retirement allowance so computed exceeds one-quarter of his final average salary.

If the retirement allowance so computed shall amount to one-quarter or less of the member's final average salary, his pension shall be computed upon the basis of the total service which he would have rendered if he continued in service until he attained age sixty so far as the resulting retirement allowance computed by resort to this formula shall not exceed one-quarter of the member's final average salary.

(2) A pension which together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal one-sixtieth of his final average salary multiplied by the number of years of his total service credit, which formula shall be used only if the retirement allowance so computed exceeds one-third of his final average salary. If the retirement allowance so computed shall amount to one-third or less of the member's final average salary, his pension shall be computed upon the basis of the total service which he would have rendered if he continued in service until he attained age sixty so far as the resulting retirement allowance computed by resort to this formula shall not exceed one-third of the member's final average salary. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this item (2) shall apply only to those who file an application for ordinary disability retirement with the comptroller prior to July first, nineteen hundred seventy-four.

For the purpose only of determining the amount of a pension pursuant to any of the above formulae, the annuity shall be computed as it would be:

(aa) If not reduced by the actuarial equivalent of any outstanding loan, and

(bb) If not increased by the actuarial equivalent of any additional contributions, and

(cc) If not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

c. If the member, at the time of the filing of an application under

the provisions of subdivision a hereof, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for ordinary disability retirement.

d. An application for an ordinary disability retirement allowance may be filed, as otherwise provided herein, simultaneously with or after the filing of an application for an accidental disability retirement allowance, providing a member meets the requirements of this section. If the comptroller shall grant the application for an accidental disability retirement allowance and the application for an ordinary disability retirement allowance, the accidental disability retirement allowance shall become payable unless the applicant files a timely written request with the comptroller to receive the ordinary disability retirement allowance in lieu of the accidental disability retirement allowance, in which case the ordinary disability retirement allowance shall become payable. To become effective, such written request must be filed with the comptroller within thirty days following notification that the applications for ordinary disability retirement and accidental disability retirement have both been granted.

§ 63. Accidental disability retirement. a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his membership is based.

However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and

provided that the member meets the requirements of paragraph one of this subdivision, application may be made either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this article at any time, or (b) not later than two years after the member is first discontinued from service.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. Some person acting on behalf of and authorized by such member.

c. (a) After the filing of such an application such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

1. The time when and the place where such accident occurred, and
2. The particulars thereof, and
3. The nature and extent of the member's injuries, and
4. His alleged incapacity.

(b) The notice herein required need not be given:

1. If notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

2. If the application for accidental disability retirement is filed within one year after the date of such accident, or

3. If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon accidental disability retirement shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated contributions, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, plus

3. A pension of three-quarters of his final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this article.

f. If the member, at the time of the filing of an application under the provisions of subdivision b hereof, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

g. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this article, it shall be presumptive evidence that it

was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this article, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this article, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

(e) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

h. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or

regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision g of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this article, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section sixty-one of this title, shall be entitled to an accidental death benefit as provided by section sixty-one of this title, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section sixty-one of this title requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision g of this section; and (2) dies in active service from a qualifying World Trade Center condition, as defined in section two of

this article, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this article, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section sixty-one of this title, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section sixty-one of this title.

§ 63-a. Performance of duty disability retirement. a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this article, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an act of any incarcerated individual or any person confined in an institution under the jurisdiction of the department of corrections and community supervision or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this title, subject to the provisions of section sixty-four of this title.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person described in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in subdivision a that may

have involved transmission of a specified transmissible disease from an incarcerated individual or such person described in subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

* c. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a correction officer or security hospital treatment assistant, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

* NB Expired and repealed July 1, 2001. § 480 of Retirement and Social Security Law extends disability benefits implemented by former § 63-c.

§ 63-b. Performance of duty disability retirement; certain county employees. a. A member employed by a county shall be eligible for a performance of duty disability retirement if the county elects to make the benefits provided herein available, as provided for in subdivision d of this section, and such member is a sheriff, deputy sheriff, undersheriff or correction officer.

b. Any sheriff, deputy sheriff, undersheriff, or correction officer as defined in subdivision a of this section, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an act of any incarcerated individual or any person confined in an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this title, subject to the provisions of section sixty-four of this title.

c. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person defined in subdivision b of this section as a natural and proximate result of an act of any incarcerated individual or person described in such subdivision b that may have involved transmission of a specified transmissible disease from an incarcerated individual or person described in such subdivision b to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

d. 1. Each county that elects pursuant to the provisions of this subdivision shall pay the cost attributable therefor.

2. The performance of duty disability retirement as defined in subdivisions b and c of this section shall be available only to sheriffs, deputy sheriffs, undersheriffs and correction officers whose employer elects to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller. Such resolution shall be accompanied by the affidavit of the chief executive officer of the county that the county has received an estimate from the retirement system of the cost of the benefit provided by this section.

3. Such resolution shall apply only to those members as defined in subdivisions a and b of this section.

* **§ 63-c. Disability benefits.** A county may elect to make the benefits provided herein available to the sheriff, undersheriff, deputy sheriffs who are engaged directly in criminal law enforcement activities, and correction officers who are in the employ of the county. Notwithstanding any provision of this chapter or any general or special law to the

contrary, any condition of impairment of health caused by diseases of the heart, resulting in the disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a member covered by this section, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary can be proved by competent evidence.

* NB Repealed July 1, 2001. § 480 of Retirement and Social Security Law (as amended by ch. 44/2001 § 2) extends disability benefits implemented by former § 63-c.

*** § 63-d. Uniformed court officers and peace officers; certain disabilities.** Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a uniformed court officer or peace officer in the unified court system who contracts any condition of impairment of health caused by diseases of the heart, resulting in disability or death to such court officer or peace officer, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence; provided, however, that prior to entry into service, such member successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

* NB Repealed July 1, 2005. § 480 of the retirement and social security law (as amended by ch. 92/2003 § 2) extends disability benefits implemented by former § 63-c.

§ 63-e. Retirement for disability incurred in performance of duty; Westchester county district attorney investigators. a. The county of Westchester may elect to make the benefits provided in this section available to criminal investigators, senior criminal investigators,

deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney.

b. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is discontinued from service; and provided that the member meets the requirements of subdivision a of this section and this subdivision.

c. Application for retirement for disability incurred in performance of duty may be made by:

1. Such member, or

2. The head of the department in which such member is employed.

d. After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, he or she shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. 1. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the occurrence which is the basis for the disability incurred in the

performance of duty, setting forth:

- (a) The time, date, and place of such occurrence, and
- (b) The particulars thereof, and
- (c) The nature and extent of the member's injuries, and
- (d) The alleged disability.

2. The notice herein required need not be given:

(a) If notice of such occurrence shall be filed in accordance with the provisions of the workers' compensation law of any state within which the county of Westchester shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for retirement for disability incurred in the performance of duty is filed within one year after the date of the occurrence which forms the basis for the application, or

(c) If a failure to file notice has been excused for good cause shown, as provided by rules and regulations promulgated by the comptroller.

3. Notwithstanding any other provision of law to the contrary, the provisions of this subdivision shall apply to all occurrences before or after the effective date of this section.

f. The retirement allowance payable upon retirement for disability incurred in the performance of duty shall consist of a pension of one-half of his or her final average salary plus an annuity which shall be the actuarial equivalent of the member's accumulated contributions, if any.

g. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement; provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the retirement for disability incurred in performance of duty.

h. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of

section sixty-three, sixty-four, five hundred seven-f, five hundred seven-g, six hundred seven-e, or six hundred seven-f of this chapter. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

i. A final determination of the comptroller that the member is not entitled to retirement benefits pursuant to this section shall not in any respect be, or constitute, a determination with regard to benefits payable pursuant to section two hundred seven-c of the general municipal law.

j. Nothing in this section shall be deemed to preclude the simultaneous filing of an application for benefits pursuant to any other section of law nor the consideration of such application by the retirement system, including an accidental disability benefit pursuant to section sixty-three of this article.

§ 63-f. Disability benefits; Westchester county district attorney investigators. The county of Westchester may elect to make the benefits provided in this section available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney. Notwithstanding any provision of this chapter or any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in the disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a member covered by this section, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary can be proved by competent evidence.

*** § 63-g. Performance of duty disability retirement.** a. Any member of the retirement system employed by the division of military and naval affairs shall be eligible to retire pursuant to the provisions of this section if he or she is an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III or training and safety officer.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any member who becomes physically or mentally incapacitated as the result of a disability, who is presently employed and who shall have sustained such disability while so employed and while actually a member of the retirement system, provided that such disability or death (A) was caused by the natural and proximate result of a disability, not caused by such firefighter's own willful negligence and (B) was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence, shall be paid a performance of duty disability retirement benefit payable pursuant to this section.

c. Application for a performance of duty disability retirement allowance for such a member may be made by:

1. Such member;
2. The head of the department in which such member is employed; or
3. Some person acting on behalf of and authorized by such member.

d. After the filing of such an application such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for performance of duty disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon retirement for performance of duty disability shall consist of a pension of one-half of his or her

final average salary plus an annuity which shall be the actuarial equivalent of such member's accumulated contributions, if any.

f. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, such member may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this article, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for performance of duty disability retirement.

g. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section sixty-four of this title. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

* NB There are 2 § 63-g's

*** § 63-g. Disability benefits; certain disabilities.** Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a county fire marshal, fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal, assistant fire marshal, or fire marshal trainee employed by Nassau county who contracts any condition of impairment of health caused by diseases of the heart, resulting in disability or death to such county fire marshal, fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal, assistant fire marshal, or fire marshal trainee, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence; provided, however, that prior to entry into service, such county fire marshal, fire marshal, supervising fire

marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal, assistant fire marshal, or fire marshal trainee successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

* NB There are 2 § 63-g's

§ 63-h. Certain impairments of health; presumption. a. Any member of the retirement system employed by the division of military and naval affairs shall be eligible to retire pursuant to the provisions of this section if he or she is an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III or training and safety officer.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by: (1) diseases of the heart; or (2) any (i) melanoma or (ii) condition of cancer affecting the lymphatic, digestive, hematological, urinary, neurological, breast, reproductive or prostate systems resulting in disability to a member covered by this section, presently employed, who successfully passed a physical examination on entry into service as an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III or training and safety officer which examination failed to reveal evidence of any disease or other impairment of the heart or such melanoma or condition, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence and shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this title, subject to the provisions of section sixty-four of this title.

c. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the lung, resulting in disability to a member covered by this section, presently employed, who successfully passed a physical examination on entry into service as an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport

firefighter III or training and safety officer, which examination failed to disclose evidence of any disease or other impairment of the lung, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence and shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this title, subject to the provisions of section sixty-four of this title.

d. After the filing of an application such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for performance of duty disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. If the member, at the time of the filing of such application, is eligible for a service retirement benefit, then and in that event, such member may simultaneously file an application for service retirement, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for performance of duty disability retirement.

§ 63-i. Death benefits for fire marshals employed by Nassau county. a. As used in this section, the term "fire marshal" shall mean a member who is employed by Nassau county with a title of county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal, and division supervising fire marshal.

b. Notwithstanding any provision of law to the contrary, where a fire marshal would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death

benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 64. Payment of both pensions for accident and other benefits prohibited. a. If any benefits under the workers' compensation law may be or become payable as the result of accidental disability or accidental death, no payment of any benefit shall be made pursuant to this article on account of such disability or death until there shall have been a final determination of the claim for workers' compensation benefits. Pending such final determination, however, the comptroller may authorize payment of all or any part of the benefits payable under this chapter, and in that event, shall be entitled to reimbursement out of the unpaid installment or installments of compensation due under the workers' compensation law provided that claim therefor is filed pursuant to the provisions of such law. Any pension, payable pursuant to this article on account of any such disability or death, shall be reduced by the amount of the benefits that are finally determined to be payable under the workers' compensation law by reason of such disability or death. Such reduction shall be effectuated as follows:

1. Pension installments shall be reduced by the amount of the concurrent workers' compensation benefits.

2. The pension reserve on account of a pension so payable shall be reduced by the amount of the lump sum workers' compensation benefits. In such case the pension thereafter payable shall be the actuarial equivalent of the pension reserve as so reduced.

No such reduction shall be made, however, for the amount of medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches or apparatus and of any funeral expense provided under the workers' compensation law in addition to regular compensation benefits, or of any legal fees awarded under the workers' compensation law.

- b. A final determination of the state workmen's compensation board

that benefits are payable pursuant to the workmen's compensation law by reason of the accidental disability or accidental death of a member of the retirement system shall not in any respect be, or constitute, a determination that an accidental disability retirement allowance or an accidental death benefit is payable on account thereof pursuant to the provisions of this article.

TITLE 8

GENERAL PROVISIONS RELATING TO RETIREMENT; RETIREMENT PLANS APPLICABLE TO MEMBERS GENERALLY

Section 70. Superannuation retirement.

70-a. Pensions-for-increased-take-home-pay.

71. Optional retirement at age fifty-five; alternative plan.

71-a. Optional retirement at age fifty-five; new plan.

72. Optional retirement at age fifty-five; closed plan.

73. Discontinued service after twenty years.

74. Procedure for retirement.

74-a. Applications and elections; issues due to death.

75. Allowance on superannuation retirement.

75-a. Non-contributory retirement plan for state employees.

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75-f. Career retirement plan for state employees.

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75-h. Career retirement plan for state employees; new plan.

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participating employers.

76. Vested retirement allowance.

77. Deferred applications for retirement.

78. Supplemental retirement allowance.

78-a. Cost-of-living adjustment.

79. Cafeteria plans.

§ 70. Superannuation retirement. a. Any member may retire if such member shall have attained at least the minimum retirement age while in service as a member, or while in federal service, or in the service of the United Nations or other international organizations of which the United States is a member, as a member continued pursuant to paragraph one of subdivision f of section forty of this article, or while entitled to make application for a vested retirement allowance pursuant to section seventy-six of this title. Any such member desiring to retire shall execute and file with the comptroller an application for retirement, which shall specify the effective date of such member's retirement, which shall be not less than fifteen nor more than ninety days subsequent to such date of filing. An application for service retirement, filed hereunder in accordance with the provisions of subdivision c of section sixty-two or subdivision f of section sixty-three of this article, shall be processed in the regular manner, provided that if the application filed simultaneously therewith under either of such subdivisions is granted, then and in that event the retirement allowance granted in accordance with the provisions of this section shall be appropriately adjusted. Notwithstanding any other provision of law, for any member who is eligible to retire, who has died while in active service, and who has filed an application for service retirement less than ninety days prior to death, such member's designated option election beneficiary or beneficiaries, if an option election has been filed prior to death, or the beneficiary or beneficiaries designated for the death benefit, if no option election was filed prior to death, shall have the option to choose the benefit provided by service retirement rather than the death benefit, provided, however that if the designated beneficiary elects the service retirement benefit such person shall be required to choose an option as provided by law. If the member's beneficiary or beneficiaries elect the service retirement benefit, the member shall be deemed to have retired on the day before the member's date of death. If there are multiple option beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the service retirement under an agreed upon option,

the service retirement benefit shall be payable under the option election form filed by the member prior to such member's death. If there are multiple death beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the service retirement under an agreed upon option, the death benefit shall be payable.

b. Any member who attains age seventy shall be retired on the first day of the calendar month next succeeding such event. Such retirement shall be on the basis of "Option One-half", unless the member files an effective election pursuant to section ninety of this article to retire on a different basis. If he shall have filed such an election, his retirement allowance shall be computed in accordance with the basis so selected by him. The provisions of this subdivision with respect to mandatory retirement shall be inapplicable to:

1. An elective officer.
2. A judge.
3. A justice.
4. An official referee.
5. A person holding office by virtue of an appointment to fill a vacancy in an elective office.
6. An employee of the port of New York authority.
7. A person who last became a member before April eleventh, nineteen hundred forty-five, and who serves continuously after such date in one or more of the following capacities:
 - (a) A clerk of a court, as provided in the constitution, article six, section twenty-one.
 - (b) An appointee of the governor.
 - (c) An employee of the legislature drawing an annual salary, or
 - (d) A chaplain of a county penal institution having served as such chaplain for not less than thirty years, or

8. A commissioner of elections.

c. Notwithstanding the provisions of subdivision b of this section, the state civil service commission may approve the continuance in service of members who have attained age seventy. Such approvals shall be for periods not to exceed two years each. No such approval shall be given unless:

1. The head of the department in which the member is employed shall file a written statement with the comptroller approving such continuance, and

2. The medical board shall certify that such member is physically fit to perform the duties of his position, and

3. The state civil service commission shall find that:

(a) Such member is less than seventy-eight years of age, and

(b) His continuance in service would be advantageous because of his expert knowledge and special qualifications.

The service of any such member may, however, be terminated at any time by the head of the department in which he is employed, upon sixty days written notice to such member.

§ 70-a. Pensions-for-increased-take-home-pay. a. Beginning with a payroll period commencing as specified by a participating employer electing to contribute pursuant to the provisions of this section the contribution of each member of the retirement system in the employ of such a participating employer, exclusive of any increase thereof pursuant to subdivision i of section twenty-one of this chapter or of any reduction thereof pursuant to subdivision one of section one hundred thirty-eight-b of this chapter, shall be reduced by five per centum of the compensation of such member. Beginning with a payroll period commencing as specified by a participating employer specifically electing, as provided in subdivision c of this section, to contribute at the higher rate pursuant to the provisions of this section the

contribution of each member of the retirement system in the employ of such a participating employer, exclusive of any increase thereof pursuant to subdivision i of section twenty-one of this chapter or of any reduction thereof pursuant to subdivision one of section one hundred thirty-eight-b of this chapter, shall be reduced by an additional three per centum of the compensation of such member. Where a member's rate of contribution as so qualified is less than the per centum by which his contribution is reduced, such rate shall be discontinued. Such a reduction or discontinuance, as the case may be, shall:

1. Be subject to waiver by the member as provided in subdivision j of section twenty-one of this article, as added by this act, and

2. Take precedence over the member's privilege under subdivision one of section one hundred thirty-eight-b of this chapter, as amended by this act, to decrease his annuity contribution for the purpose of paying his contributions for old-age, survivors, and disability insurance coverage or the tax imposed upon him pursuant to the federal insurance contribution act.

- aa. Beginning with a payroll period commencing on or after such date, as specified by a participating employer electing to contribute pursuant to the provisions of this subdivision, the contribution of each member of the retirement system in the employ of such a participating employer, whose rate of contribution is in excess of eight per centum, exclusive of any increase thereof pursuant to subdivision i of section twenty-one of this chapter or of any reduction thereof pursuant to subdivision one of section one hundred thirty-eight-b of this chapter or subdivision a of this section, shall be suspended. In the case of a participating employer any member may by written notice duly acknowledged and filed with the comptroller beginning with the payroll period commencing on or after such date as specified by a participating employer within one year after the effective date of this act or within one year after he last became a member, whichever is later, elect to waive the suspension of his contribution provided by this subdivision. One year or more after the filing thereof a member may withdraw any such waiver by written notice duly acknowledged and filed with the comptroller. Where a member

makes an election to waive the suspension of his contributions as herein provided, he shall contribute to the retirement system as otherwise provided in this chapter.

However, commencing with the payroll period the first day of which is nearest to July first, nineteen hundred sixty-six, the foregoing provisions of subdivision aa shall be inapplicable as to any participating employers other than those who had filed a resolution prior to the effective date of this act to participate thereunder.

b. For such period of time as the provisions of subdivision a and subdivision aa of this section shall be in effect, contributions shall be made to the pension accumulation fund by or on account of the state and each such participating employer, as provided in sections sixteen, seventeen and forty-two of this article, at a rate fixed by the actuary which shall be computed to be sufficient to provide death benefits and pensions-providing-for-increased-take-home-pay which are or may become payable on account of members in the employ of the state or of such a participating employer. Such a benefit or pensions shall be based on a reserve-for-increased-take-home-pay which shall be equivalent to the per centum of the member's compensation during such period by which his contribution is reduced, or would otherwise be reduced if his rate of contribution equaled or exceeded eight per centum, pursuant to subdivision a of this section, plus in the case of any member in the employ of the state or of any employee of a participating employer who has elected to participate pursuant to the provisions of this section whose rate of contribution before any reduction as provided in subdivision a of this section exceeds eight per centum, the per centum of his compensation during such period by which his contribution is suspended pursuant to subdivision aa, plus regular interest thereon. Commencing with the payroll period which is nearest to April first, nineteen hundred sixty-one, the provisions of this section shall not apply to any member for any period or periods during which he ceases or has ceased contributing toward retirement upon completion of twenty years of service pursuant to subdivision c of section eighty, completion of twenty-five years of service pursuant to subdivision d of section eighty-one, subdivision d of section eighty-three, paragraph four of

subdivision d of section eighty-four, subdivision e of section eighty-five, subdivision d of section eighty-six and subdivision d of section eighty-seven, completion of thirty-five years of service and attainment of age sixty pursuant to subdivision d of section twenty-one, or completion of years of service or attainment of specified age under any other similar requirement of this article heretofore or hereafter enacted, provided, however, that such member shall receive credit pursuant to this section for such period or periods for which he contributes or has contributed toward retirement.

c. By the adoption, filing and approval, where required, of a resolution in the manner provided by sections thirty, thirty-one or thirty-two of this article, as the case may be, a participating employer may elect to make contributions to the pension accumulation fund pursuant to this section for the purpose of providing death benefits and pensions-providing-for-increased-take-home-pay. Such resolution shall specify the first payroll period after the date of such filing for which reduction shall be made pursuant to subdivision a of this section in the contributions of members in its employ and the per centum of their compensation by which their contributions shall be reduced, which shall be five per centum unless eight per centum is specifically elected.

d. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only until the payroll period immediately prior to that the first day of which is nearest to July first, nineteen hundred seventy-four.

§ 71. Optional retirement at age fifty-five; alternative plan.

a. Any member of the retirement system who has not by voluntary election on or after April first, nineteen hundred fifty-six, withdrawn the excess contributions authorized by subdivision d of this section, by written notice duly acknowledged and filed with the comptroller on or before December thirty-first, nineteen hundred fifty-six, or within one year after he last became a member, whichever is later, may elect to

contribute pursuant to this section on the basis of retirement at age fifty-five. After such election the member shall contribute pursuant to this section at the higher rate determined in accordance with this subdivision a. Such higher rate shall be determined by the actuary upon the basis of tables adopted by the comptroller and regular interest. Such higher rate shall consist of the member's rate of normal contribution plus an additional rate. Such higher rate shall be computed as the constant proportion of annual compensation which, when deducted from each payment of such member's prospective earnable compensation from the time when he last became a member until he shall attain age fifty-five, would provide, at such latter time, an annuity equal to one-one hundred twentieth of his final average salary for each year of member service rendered or which he will have rendered prior to his attainment of age fifty-five and for which he shall be entitled to credit. Such higher rate of contribution of a member who is over age fifty-four, at the time of his last becoming a member, shall be the same as if his age were fifty-four. Where a member elects to contribute pursuant to this section, after April first, nineteen hundred fifty-six, and prior to December thirty-first, nineteen hundred fifty-six, contributions at such higher rate shall be made from January first, nineteen hundred fifty-six, or from the date he last became a member, whichever is later. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. Except as otherwise provided in subdivision b of this section, such a member shall contribute on the basis of his rate of normal contribution after attaining age fifty-five.

b. In addition to the contributions required by subdivision a, a member who elects to contribute pursuant to this section shall

contribute also toward the deficiency in his contributions on account of past member service rendered by him prior to his attainment of age fifty-five. The amount of such deficiency shall be certified by the actuary and shall be computed as the actuarial equivalent of the additional contributions which such member would have made on account of his past member service if his higher rate of contribution, determined pursuant to subdivision a of this section, had been in effect during the period of such past member service. A member may pay the amount of such deficiency in a lump sum or in such installments as the comptroller shall approve. Any member may make one or more cash payments of one hundred dollars, or any multiple thereof, on account of such deficiency. Any member may by written notice duly acknowledged and filed with the comptroller authorize and require payroll deductions of ten dollars each, or any multiple thereof, to be made on account of such deficiency. One year or more after the filing thereof any such notice may be withdrawn by written notice duly acknowledged and filed with the comptroller. If the amount of such deficiency in contributions is not paid in any other way, the member shall, after attaining age fifty-five, continue to contribute at the higher rate of contribution determined pursuant to subdivision a of this section, so long as he continues in government service and remains a member but not longer than is necessary to pay the full amount of such deficiency.

c. Notwithstanding any inconsistent provision of section seventy-two of this article, any member who is contributing to the retirement system on the basis of retirement at age fifty-five pursuant to such section and who, on or before December thirty-first, nineteen hundred fifty-six, withdraws such election for the purpose of making an election to contribute on the basis of retirement at age fifty-five pursuant to this section, shall contribute pursuant to this section, provided such withdrawal and election is by written notice duly acknowledged and filed with the comptroller. The additional contributions made by any such member pursuant to such section seventy-two plus the regular interest thereon shall be applied to the payment of the deficiency in contributions certified by the actuary pursuant to subdivision b of this section. The amount of such additional contributions plus the regular interest thereon which is in excess of the amount necessary to pay such

deficiency may be withdrawn by the member at any time prior to retirement.

d. One year or more after the filing thereof, a member may withdraw his election to contribute pursuant to this section on the basis of retirement at age fifty-five. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. Such member thereafter shall contribute on the basis of his rate of normal contribution. Such member, upon application at any time prior to retirement and with the approval of the comptroller, shall be entitled to a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution.

e. On or after May fifteenth, nineteen hundred fifty-seven, no election may be made to contribute pursuant to this section.

f. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 71-a. Optional retirement at age fifty-five; new plan. a. Any member of the retirement system, who has not by voluntary election on or after April first, nineteen hundred sixty-six, withdrawn the excess contributions authorized by subdivision d of this section, by written notice duly acknowledged and filed with the comptroller on or before December thirty-first, nineteen hundred sixty-six, or within one year after he last became a member, whichever is later, may elect to contribute pursuant to this section on the basis of retirement at age fifty-five. After such election the member shall contribute pursuant to this section at the higher rate determined in accordance with this subdivision a. Such higher rate shall be determined by the actuary upon the basis of tables adopted by the comptroller and regular interest. Such higher rate shall consist of the member's rate of normal contribution plus an additional rate. Such higher rate shall be computed as the constant proportion of annual compensation which, when deducted

from each payment of such member's prospective earnable compensation from the time when he last became a member until he shall attain age fifty-five, would provide, at such latter time, an annuity equal to one-one hundred twentieth of his final average salary for each year of member service rendered or which he will have rendered prior to his attainment of age fifty-five and for which he shall be entitled to credit. Such higher rate of contribution of a member who is over age fifty-four, at the time of his last becoming a member, shall be the same as if his age were fifty-four. Where a member elects to contribute pursuant to this section, contributions at such higher rate shall be made from May fifteenth, nineteen hundred sixty-six, or from the date he last became a member, whichever is later. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

b. In addition to the contributions required by subdivision a, a member who elects to contribute pursuant to this section shall contribute also toward the deficiency in his contributions on account of past member service rendered by him. The amount of such deficiency shall be certified by the actuary and shall be computed as the actuarial equivalent of the additional contributions which such member would have made on account of his past member service if his higher rate of contribution, determined pursuant to subdivision a of this section, had been in effect during the period of such past member service. A member may pay the amount of such deficiency in a lump sum or in such installments as the comptroller shall approve. Any member may make one or more cash payments of one hundred dollars, or any multiple thereof, on account of such deficiency. Any member may by written notice duly acknowledged and filed with the comptroller authorize and require payroll deductions of ten dollars each, or any multiple thereof, to be

made on account of such deficiency. One year or more after the filing thereof any such notice may be withdrawn by written notice duly acknowledged and filed with the comptroller.

c. Notwithstanding any inconsistent provision of sections seventy-one or seventy-two of this article, any member who is contributing to the retirement system on the basis of retirement at age fifty-five pursuant to such sections and who on or before December thirty-first, nineteen hundred sixty-six, withdraws such election for the purpose of making an election to contribute on the basis of retirement at age fifty-five pursuant to this section, shall contribute pursuant to this section, provided such withdrawal and election is by written notice duly acknowledged and filed with the comptroller. The additional contributions made by any such member pursuant to sections seventy-one or seventy-two plus the regular interest thereon shall be applied to the payment of the deficiency in contributions certified by the actuary pursuant to subdivision b of this section. The amount of such additional contributions plus the regular interest thereon which is in excess of the amount necessary to pay such deficiency may be withdrawn by the member at any time prior to retirement.

d. One year or more after the filing thereof, a member may withdraw his election to contribute pursuant to this section on the basis of retirement at age fifty-five. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. Such member thereafter shall contribute on the basis of his rate of normal contribution. Such member, upon application at any time prior to retirement and with the approval of the comptroller, shall be entitled to a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution.

e. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 72. Optional retirement at age fifty-five; closed plan. a. A member of the retirement system under age fifty-five who elected before May fifteenth, nineteen hundred fifty, to contribute to the retirement system pursuant to this section shall make additional contributions to the annuity savings fund over and above those required to be made by section twenty-one of this article. The rate of such additional contributions shall be computed in a manner similar to that provided by such section twenty-one. Such rate shall be computed to be sufficient to provide an annuity at such age which, with the total pension provided for by subdivision b of section seventy-five of this article will produce a retirement allowance of one-sixtieth of his final average salary for each year of his total service. A member's rate of contribution pursuant to this section shall be appropriately reduced for such period of time as his employer contributes toward pensions-providing-for-increased-take-home-pay pursuant to section seventy-a of this article. A retirement allowance, computed as provided in subdivision b of such section seventy-five, shall be payable upon the retirement of such member after he has attained age fifty-five.

b. If any such member elected to contribute on the basis of retirement at age fifty-five after he had been credited with twenty or more years of allowable service, he may pay the additional contributions provided for by subdivision a of this section at any time within one year after he makes such election and prior to his retirement.

c. One year or more after the filing thereof, a member may withdraw his election to contribute on the basis of retirement at age fifty-five pursuant to this section. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. Such member thereafter shall contribute on the basis of retirement at age sixty. Such member, upon application before retirement and with the approval of the comptroller, shall be entitled to a refund of the amount of his contributions and interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of retirement at age sixty.

d. On or after May fifteenth, nineteen hundred fifty, no election may

be made to contribute pursuant to this section.

e. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 73. Discontinued service after twenty years. a. Persons who last became members before April eighth, nineteen hundred forty-three.

1. A person who last became a member before April eighth, nineteen hundred forty-three, and who is discontinued from service while a member, through no fault or delinquency on his part, may elect to receive his accumulated contributions or a retirement allowance pursuant to the provisions of paragraph two, three, four or five of this subdivision a, as the case may be, if:

(a) He shall have completed twenty years of total service, and

(b) During the six months immediately preceding such discontinuance, he shall have been in paid service continuously, regularly and without interruption.

The provisions of subparagraph (b) of this paragraph one shall not apply to legislative employees or laborers who have served as such for at least parts of each of the two years immediately preceding such discontinuance.

2. A retirement allowance granted pursuant to the provisions of this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall consist of:

(1) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus

(2) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension, beginning at age sixty of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit.

3. If, in addition, the member has attained age forty-five, the retirement allowance granted pursuant to this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall consist of:

(1) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus fifty per centum of the difference between such pension and the pension that would be allowable to him for such service if he were age sixty, plus

(2) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit, plus fifty per centum of the difference between such pension and the pension that would be allowable to him for such service if he were age sixty.

4. If the member is age forty-five, and in addition, has been at any time, continuously employed for twenty years or more, the retirement allowance granted pursuant to this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall consist of:

(1) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus the difference between such pension and the pension that would be allowable to him for such service if he were age sixty, plus

(2) A pension which is the actuarial equivalent at his age at the time of such discontinuance of a pension beginning at age sixty of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit plus the difference between such pension and the pension that would be allowable to him for such service if he were age sixty.

5. If the member shall have attained age fifty and has been, at any time, continuously employed for twenty-five years or more the retirement allowance granted pursuant to this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which together with the annuity, shall equal the retirement allowance which would be payable had the member reached age sixty at the time of discontinuance from such service.

6. Time during which a member was:

(a) Absent on leave without pay after January first, nineteen twenty-one, or

(b) On a preferred eligible list pursuant to section eighty-one of the civil service law or former section thirty-one of such law and after such date, or

(c) Rendering paid or unpaid services to the state or to a participating employer prior to May twentieth, nineteen hundred fifty-five, for not to exceed four months immediately prior to which and immediately subsequent to which he was in an employment on the basis of

which he contributed to the retirement system, shall not constitute an interruption of continuous employment. Such time, however, shall not be counted or included in determining the length of his total service.

b. Persons who last became members on or after April eighth, nineteen hundred forty-three.

1. A person who last became a member on or after April eighth, nineteen hundred forty-three, and who is discontinued from service while a member, through no fault or delinquency on his part, may elect to receive his accumulated contributions or a retirement allowance pursuant to the provisions of paragraph two of this subdivision b if:

(a) He shall have completed twenty years of total service, and

(b) During the six months immediately preceding such discontinuance, he shall have been in paid service continuously, regularly and without interruption.

The provisions of subparagraph (b) of this paragraph one shall not apply to legislative employees or laborers who have served as such for at least parts of each of the two years immediately preceding such discontinuance.

2. A retirement allowance granted pursuant to the provisions of this subdivision b shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall be composed of one or more of the following parts:

(1) One which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension, beginning at age sixty, of one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus

(2) One which is the actuarial equivalent, at his age at the time of

such discontinuance, of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit, plus

(3) If the member shall have attained age fifty, one which equals fifty per centum of the difference between the pension payable to him pursuant to items one and two of this subparagraph (c) and the pension that would be allowable to him were he age sixty.

3. Application shall be made for a discontinued service retirement allowance pursuant to this subdivision b in the same manner and subject to the same conditions which govern applications and elections for superannuation retirement allowances.

§ 74. Procedure for retirement. a. Every application for a retirement allowance or other benefit provided by this article shall be executed and filed with the comptroller. Each such application shall contain such information as the comptroller shall deem necessary.

b. The comptroller shall have exclusive authority to determine all applications for any form of retirement or benefit provided for in this article. He shall examine into the facts of each such application, and to that end, shall have full power and authority to:

1. Employ experts and specialists, and
2. Require the attendance of the applicant and other witnesses, and
3. Require the production of all books, papers, documents and other records pertaining to such inquiry, and
4. Administer oaths and take testimony.

The comptroller shall have the power to issue subpoenas, under his hand, returnable anywhere in the state. Any such subpoena shall be served in the same manner and have the same force and effect as a subpoena issued in an action pending in the supreme court.

c. After making his determination on any application the comptroller forthwith shall mail a written notice thereof to the applicant. Such notice shall be mailed to the address given in such application.

d. At any time within four months after the mailing of such notice, the applicant or his counsel may serve a written demand upon the comptroller for a hearing and redetermination of such application. After the service of such demand, the comptroller shall hold a hearing upon such application at which the applicant may be represented by counsel. The comptroller shall have the same powers upon such hearing as upon the original application. After such hearing the comptroller shall make his final determination. A copy thereof shall be mailed to the applicant and his counsel, if any. Such final determination shall be subject to review only as provided in article seventy-eight of the civil practice law and rules.

e. To aid him in passing upon applications for retirement, the comptroller shall appoint a medical board consisting of not less than five physicians who shall hold office at his pleasure. Such medical board shall:

1. Arrange for and pass upon all medical examinations required or allowed under the provisions of this article, and

2. Have full power and authority to investigate statements and certificates submitted by or on behalf of a claimant in connection with any application for accidental death benefit, disability retirement or restoration to service thereafter, and

3. Have full power and authority to administer oaths and require sworn statements and testimony with respect to matters under its jurisdiction. The comptroller may designate other doctors to conduct the medical examination required or allowed hereunder. The medical board, in any case in which it shall deem it advisable, may require any such doctor to conduct any such examination and to report in writing his findings thereon to the medical board. The medical board shall thereupon consider such report. Upon completion of its examination and investigation and

after the consideration of the report, if any, of any such other doctor, the medical board shall submit to the comptroller a report of its findings and proceedings which shall include the report, if any, of such other doctor. The report of the medical board shall be admissible in evidence upon any hearing before the comptroller or in connection with any examination or investigation conducted by him pursuant to this article.

f. The comptroller, in any particular case, may designate one of his deputies or any other person to perform the duties imposed upon him by this section.

g. In connection with the proceedings authorized by this section the comptroller shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure.

§ 74-a. Applications and elections; issues due to death.

Notwithstanding any other law, rule or regulation to the contrary, in the event a member dies prior to receipt by the comptroller or the retirement system of his or her application for service retirement, disability retirement or a retirement option election form and such application or form was mailed to the comptroller or retirement system by United States postal service first class mail prior to date of death, the application or form shall be deemed filed on the date of mailing, based upon the legible postmark on the envelope. The comptroller shall have the sole authority to determine whether a postmark is legible for the purpose of this section. Provided, however, no such retirement application or option election form shall be deemed filed with the retirement system on the date of mailing unless actually received by the retirement system as a result of such mailing.

§ 75. Allowance on superannuation retirement. a. Except as otherwise provided by subdivision b, c or d of this section, upon retirement for superannuation or for any other cause after attainment of age sixty, a member shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension of one-one hundred fortieth of his final average salary, multiplied by the number of years for which he has member service credit, plus

4. A pension which equals one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I. This part shall be granted only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section forty-one of this article.

b. Upon retirement for superannuation after attainment of age fifty-five and before attainment of age sixty or for any other cause after attainment of age sixty, of a member who is contributing to the retirement system pursuant to section seventy-two of this article on the basis of retirement at age fifty-five, he shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension for the number of years for which he has member service credit, plus

4. A pension for the number of years for which he has prior service credit and credit for service in war after world war I. This part shall be granted only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section forty-one of this article.

Each such pension specified in paragraphs three and four of this subdivision b shall be the actuarial equivalent, at the time of such member's retirement, of the pension to which he would have been entitled for such service, had he attained age sixty and not elected to contribute on the basis of retirement at age fifty-five.

c. Upon retirement for superannuation on or after attainment of age fifty-five or for any other cause after attainment of age sixty, of a member who is contributing to the retirement system on the basis of retirement at age fifty-five pursuant to section seventy-one of this article, he shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension which shall consist of:

(a) A pension of one-one hundred twentieth of final average salary multiplied by the number of years for which he has member service credit for service rendered prior to the attainment of age fifty-five, and

(b) A pension of one-one hundred fortieth of final average salary multiplied by the number of years for which he has member service credit for service rendered after the attainment of age fifty-five, and

(c) A pension of one-sixtieth of final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I for service rendered prior to the attainment of age fifty-five, and

(d) A pension of one-seventieth of final average salary multiplied by

the number of years for which he has prior service credit and credit for service in war after world war I for service rendered after the attainment of age fifty-five.

Subparagraphs (c) and (d) of this paragraph three shall be available only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section forty-one of this article.

d. Upon retirement for superannuation on or after attainment of age fifty-five or for any other cause after attainment of age sixty, of a member who is contributing to the retirement system on the basis of retirement at age fifty-five pursuant to section seventy-one-a of this article, he shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension which shall consist of:

- (a) A pension of one-one hundred twentieth of final average salary multiplied by the number of years for which he has member service credit, and

- (b) A pension of one-sixtieth of final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I.

Subparagraph (b) of this paragraph three shall be available only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section forty-one of this article.

§ 75-a. Non-contributory retirement plan for state employees. a.

Notwithstanding any other provision of law to the contrary, no further contributions to the retirement system, as provided in subdivision b of section twenty-one of this chapter, shall be required of any member in the employ of the state; provided, however, in the case of persons in the employ of the state who last became members on or after July first, nineteen hundred seventy-three, such required contributions shall be waived only until the payroll period immediately prior to that the first day of which is nearest to July first, nineteen hundred seventy-four.

b. Contributions shall be made to the pension accumulation fund by or on account of the state, as provided in sections sixteen, seventeen and forty-two of this chapter, at a rate fixed by the actuary which shall be computed to be sufficient to provide the benefits established by section seventy-five-c of this chapter on account of members in the employ of the state.

c. Nothing contained in this section shall impair the right of persons, who became members before August nineteenth, nineteen hundred sixty-six, to make contributions pursuant to subdivision i of section twenty-one of this chapter.

d. Any member who has elected to contribute at a certain rate of contribution in accordance with the provisions of subdivision j of section twenty-one of this chapter, shall continue to contribute at such rate until his election under said subdivision is withdrawn.

e. Any member in service on August nineteenth, nineteen hundred sixty-six, may by written notice duly acknowledged and filed with the comptroller on or before August eighteenth, nineteen hundred sixty-seven, elect to contribute to the retirement system. Where a member makes an election to contribute, as herein provided for, he shall contribute to the retirement system as otherwise provided in this chapter. One year or more after the filing of the notice of election to contribute, the member may withdraw such election and elect not to contribute.

§ 75-b. Non-contributory retirement plan for members of participating employers. a. Notwithstanding any other provision of law to the contrary, no further contributions to the retirement system as provided in subdivision b of section twenty-one of this chapter, shall be required of any member in the employ of such a participating employer electing to participate pursuant to the provisions of this section; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, such required contributions shall be waived only until the payroll period immediately prior to that the first day of which is nearest to July first, nineteen hundred seventy-four.

b. (1) By the adoption, filing and approval, where required, of a resolution in the manner provided by sections thirty, thirty-one or thirty-two of this chapter, as the case may be, a participating employer who had previously elected to make contributions under the provisions of subdivision aa of section seventy-a of this chapter, may elect to make contributions to the pension accumulation fund for the purpose of providing a non-contributory retirement plan pursuant to this section.

(2) By the adoption, filing and approval, where required, of a resolution in the manner provided by sections thirty, thirty-one or thirty-two of this chapter, as the case may be, a participating employer who had not previously elected to contribute under the provisions of subdivision aa of section seventy-a of this chapter, may elect to make contributions to the pension accumulation fund for the purpose of providing a non-contributory retirement plan pursuant to this section. Such resolution shall specify the first payroll period after the date of such filing for which no further contributions shall be required of members in its employ.

c. Contributions shall be made to the pension accumulation fund by or on account of each participating employer, as provided in sections sixteen, seventeen and forty-two of this chapter, at a rate fixed by the actuary which shall be computed to be sufficient to provide the benefits established by section seventy-five-c of this chapter on account of members in the employ of such participating employers.

d. Nothing contained in this section shall impair the right of persons, who became members before August nineteenth, nineteen hundred sixty-six, to make contributions pursuant to subdivision i of section twenty-one of this chapter.

e. Any member who has elected to contribute at a certain rate of contribution in accordance with the provisions of subdivision j of section twenty-one of this chapter, shall continue to contribute at such rate until his election under said subdivision is withdrawn.

f. Any member in service on August nineteenth, nineteen hundred sixty-six, may by written notice duly acknowledged and filed with the comptroller on or before August eighteenth, nineteen hundred sixty-seven, elect to contribute to the retirement system. Where a member makes an election to contribute, as herein provided for, he shall contribute to the retirement system as otherwise provided in this chapter. One year or more after the filing of the notice of election to contribute, the member may withdraw such election and elect not to contribute.

§ 75-c. Non-contributory retirement plan benefits. a. In addition to any retirement allowance to which a member may be entitled for services rendered at any time other than expressly provided for herein, any member covered by the provisions of section seventy-five-a or seventy-five-b of this chapter shall upon retirement, receive a service retirement pension for the herein provided period of service, in accordance with the provisions of paragraphs one or two hereof, as the case may be, which shall be in lieu of the service retirement pension and the pension for increased-take-home-pay provided for in the sections of this chapter hereinafter referred to.

1. (a) A member who had been contributing for service retirement benefits on the basis of any of the plans contained in sections seventy-one, seventy-one-a, seventy-two or seventy-five of this chapter, shall receive at retirement, for service rendered on and after April

first, nineteen hundred sixty, a pension computed on the basis of one-sixtieth of his final average salary for each year of such service; provided, however, persons who last became members on or after July first, nineteen hundred seventy-three shall receive such pension only for service rendered on and after April first, nineteen hundred sixty, and prior to July first, nineteen hundred seventy-four.

(b) A member who had been contributing for service retirement benefits on the basis of any of the plans contained in subparagraph a hereof, shall receive at retirement, for service rendered before April first, nineteen hundred sixty, a pension computed on the basis of one-one hundred twentieth of his final average salary for each year of credited member service plus one-sixtieth of his final average salary for each such year of credited prior service or service in war after world war I. Notwithstanding anything to the contrary contained in section seventy-five of this chapter, a member who had been contributing as aforesaid shall be eligible for superannuation retirement upon attainment of age fifty-five.

2. A member who had been contributing for service retirement benefits on the basis of the plan contained in section eighty of this chapter shall receive at retirement, for service rendered on or after April first, nineteen hundred sixty, a pension of one-fortieth of his final average salary for each year of such credited service, provided, however, that the sum total of the retirement allowance payable shall not exceed one-half of the member's final average salary.

3. A member who had been contributing under section eighty-nine shall receive at retirement, for service rendered on and after April first, nineteen hundred sixty, a pension of one-fiftieth of his final average salary for each year of such credited service, with the total allowance hereunder determined as defined and limited in the section referred to in this paragraph three and with the additional proviso that any contributions made by the member during the period referred to in this paragraph three are to be used at retirement to provide an additional annuity over and above the retirement allowance otherwise provided, except that persons who last became members on or after July first, nineteen hundred seventy-three, shall receive such pension only for

service rendered on and after April first, nineteen hundred sixty, and prior to July first, nineteen hundred seventy-four.

4. A member who had been contributing under section eighty-nine-a shall receive at retirement, for service rendered on and after April first, nineteen hundred sixty, a pension of one-fiftieth of his final average salary for each year of such credited service, with the total allowance hereunder determined as defined and limited in the section referred to in this paragraph four and with the additional proviso that any contributions made by the member during the period referred to in this paragraph four are to be used at retirement to provide an additional annuity over and above the retirement allowance otherwise provided; except that persons who last became members on or after July first, nineteen hundred seventy-three shall receive such pension only for service rendered on and after April first, nineteen hundred sixty and prior to July first, nineteen hundred seventy-four.

5. In addition to the pension hereinabove provided, a member shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

6. The benefits hereinabove provided shall be payable unless the member would otherwise under the provisions of this chapter be entitled to a greater benefit, in which event, the greater benefit shall be payable.

7. An act of the legislature of the year nineteen hundred sixty-eight which in form, adds or purports to add a new section or subdivision or purports to amend or repeal any section, subdivision or provision of this chapter as in force and effect immediately prior to January first, nineteen hundred sixty-eight, shall be deemed and construed as having been added to this act and shall be given full effect according to its context as if the same had been added expressly and in terms of this act, and shall be deemed and construed to have been inserted in this act in the appropriate position in regard to and as modifying the effect of the corresponding provision or provisions of this act to the end that there will be no diminution or impairment of any of the benefits enacted

by such session of the legislature.

§ 75-d. Guaranteed retirement benefits for state employees. a. 1. A member of the retirement system in the employ of the state on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight who retires from such employ on or after April first, nineteen hundred sixty-eight, and who is entitled to a pension pursuant to paragraph one of subdivision a of section seventy-five-c of this chapter, shall receive such an additional pension for member service rendered on or after April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, as will provide, when added to the pension provided pursuant to subparagraph (b), paragraph one, subdivision a of section seventy-five-c, and the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, a retirement allowance of one-sixtieth of final average salary for each year of such service. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivors insurance coverage.

2. The additional pension provided under this section shall not be included in computing any pension reserve payable pursuant to the provisions of section sixty of this chapter.

3. Any accumulated contributions in excess of the amount required to provide the annuity computed pursuant to paragraph one of subdivision a of this section shall be used to increase the member's retirement allowance.

b. A member of the retirement system not in the employ of the state on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight, who thereafter enters or re-enters such employ, shall not be entitled to the additional pension provided

under this section for any period of member service rendered on or after April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, unless he renders two or more years of service in the employ of the state after April first, nineteen hundred sixty-eight, and retires from such employ, except that a member shall retain such eligibility for the additional pension provided by this section that accrued by reason of previous employment immediately prior to employment with the state.

c. The benefits hereinabove provided shall be payable unless the member would otherwise under the provisions of this chapter be entitled to a greater benefit, in which event, the greater benefit shall be payable.

d. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring from state service prior to July first, nineteen hundred seventy-four.

§ 75-e. Guaranteed retirement benefits for employees of participating employers. a. By the adoption, filing and approval, where required, of a resolution in a manner provided by section thirty, thirty-one or thirty-two of this chapter, as the case may be, a participating employer who previously elected to make contributions under the provisions of section seventy-five-b of this chapter may elect to make contributions to the pension accumulation fund for the purpose of providing guaranteed retirement benefits pursuant to this section for members in its employ who are entitled to a pension pursuant to paragraph one, subdivision a of section seventy-five-c of this chapter. Such resolution shall specify an effective date which shall be on or after the date of such filing for the commencement of guaranteed retirement benefits.

b. 1. The guaranteed retirement benefit shall consist of an additional pension for member service rendered on or after April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, which when added to the pension provided pursuant to subparagraph (b),

paragraph one, subdivision a of section seventy-five-c and the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, will provide a retirement allowance of one-sixtieth of final average salary for each year of such service, for members in its employ on the effective date of the aforesaid resolution. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivors insurance coverage.

2. The additional pension provided under this section shall not be included in computing any pension reserve payable pursuant to the provisions of section sixty of this chapter.

3. Any accumulated contributions in excess of the amount required to provide the annuity computed pursuant to paragraph one of this subdivision shall be used to increase the member's retirement allowance.

c. 1. A member of the retirement system in the employ of such participating employer on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight, who retires from such employ after the effective date of the aforesaid resolution, shall be entitled to, if otherwise eligible, the additional pension provided under subdivision a of this section.

2. A member of the retirement system not in the employ of the participating employer on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight, who thereafter enters or re-enters such employ, shall not be entitled to the additional pension provided under this section for any period of member service rendered on or after April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, unless he renders two or more years of service in the employ of such participating employer after the effective date that such employer elects to provide the benefits under this section, and retires from such employ, except that a

member shall retain such eligibility for the additional pension provided by this section that accrued by reason of previous employment immediately prior to employment with such participating employer.

d. The benefits hereinabove provided shall be payable unless the member would otherwise under the provisions of this chapter be entitled to a greater benefit, in which event, the greater benefit shall be payable.

e. The provisions of this section shall apply to members retiring from service with a participating employer after the effective date of such resolution; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring prior to July first, nineteen hundred seventy-four.

§ 75-f. Career retirement plan for state employees. a. (1) A member of the retirement system in the employ of the state who retires while in such employ on or after April first, nineteen hundred sixty-nine, and who is entitled to a service retirement benefit pursuant to section seventy-five-c and section seventy-five-d of this chapter, and who retires with twenty-five or more years of total service, shall have his retirement allowance computed as provided under section seventy-five-c and section seventy-five-d, except that the fraction one-fiftieth shall be substituted for the fraction one-sixtieth for each of the first twenty-five years of such service, and that service rendered prior to April first, nineteen hundred thirty-eight shall be included in such computation.

(2) That portion of the pension provided pursuant to the provisions of this section which is in excess of the pension that the member would have received had this section not been in effect shall not be included in computing any pension reserve payable pursuant to the provisions of section sixty of this chapter.

b. A member of the retirement system not in the employ of the state on April first, nineteen hundred sixty-nine, who thereafter enters or

reenters such employ, shall not be entitled to have his retirement allowance computed pursuant to the provisions of this section unless:

(1) Such member renders five or more years of service in the employ of the state after March thirty-first, nineteen hundred sixty-nine and retires from such employ, or

(2) Immediately prior to service with the state, service was rendered while a member of a retirement system maintained by the state or a municipality thereof, operating on a sound actuarial basis and subject to the supervision of the department of financial services of this state, in a plan which provides service retirement benefits equal or superior to those provided under this section and at the date of his retirement such member would have been eligible for such benefits had he not separated from service with such employer.

c. A member eligible for a vested retirement allowance pursuant to the provisions of section seventy-six, who separates from the employ of the state on or after April first, nineteen hundred sixty-nine with twenty-five or more years of total service, and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance, be entitled to have such allowance computed in the manner prescribed by this section.

d. In addition to the retirement allowance provided pursuant to the plan set forth in section eighty-nine of this chapter, a member of such plan who retires on or after April first, nineteen hundred sixty-nine with more than twenty-five years of total service shall be entitled to receive, in addition to the benefits provided pursuant to section eighty-nine and notwithstanding the limitations of such section, an additional retirement allowance for such years of service rendered in excess of twenty-five. The additional retirement allowance for such additional years of service shall be computed as if such member had been eligible to have his retirement allowance computed pursuant to the provisions of paragraph one of subdivision a of section seventy-five-c and of paragraph one of subdivision a of section seventy-five-d of this chapter.

e. The benefits hereinabove provided shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this chapter, in which event the greater benefit shall be payable.

f. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring or separating in vested status from state service prior to July first, nineteen hundred seventy-four.

§ 75-g. Career retirement plan for employees of participating employers. a. (1) By the adoption, filing and approval, where required, of a resolution in a manner provided by section thirty, thirty-one or thirty-two of this chapter, as the case may be, a participating employer who previously elected to make contributions under the provisions of section seventy-five-b and section seventy-five-e of this chapter, may elect to make contributions to the pension accumulation fund for the purpose of providing the career retirement plan pursuant to this section. A member of the retirement system in the employ of a participating employer, who has elected to provide the career retirement plan, who retires while in such employ on or after April first, nineteen hundred sixty-nine, and who is entitled to a service retirement benefit pursuant to section seventy-five-b and section seventy-five-e of this chapter, and who retires with twenty-five or more years of total service, shall have his retirement allowance computed as provided under section seventy-five-b and section seventy-five-e, except that the fraction one-fiftieth shall be substituted for the fraction one-sixtieth for each of the first twenty-five years of such service, and that service rendered prior to April first, nineteen hundred thirty-eight shall be included in such computation.

(2) That portion of the pension provided pursuant to this section, which is in excess of the pension that the member would have received had this section not been in effect, shall not be included in computing any pension reserve payable pursuant to section sixty of this chapter.

b. A member of the retirement system not in the employ of a participating employer who has elected to provide the career retirement plan on the date the employer's election to participate in this plan pursuant to subdivision f of this section becomes effective who thereafter enters or reenters such employ, shall not be entitled to have his retirement allowance computed pursuant to the provisions of this section unless:

(1) Such member renders five or more years of service in the employ of such participating employer after the date the employer's election to participate in this plan pursuant to subdivision f of this section becomes effective and retires from such employ, or

(2) Immediately prior to service with such participating employer, service was rendered while a member of a retirement system maintained by the state or a municipality thereof operating on a sound actuarial basis and subject to the supervision of the department of financial services of this state in a plan which provides service retirement benefits equal or superior to those provided under this section and at the date of his retirement such member would have been eligible for such benefits had he not separated from service with such employer.

c. A member eligible for a vested retirement allowance pursuant to section seventy-six, who, on or after April first, nineteen hundred sixty-nine with twenty-five or more years of total service, separates from the employ of a participating employer who has elected to provide the career retirement plan and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance, be entitled to have such allowance computed in the manner prescribed by this section.

d. The benefits hereinabove provided shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this chapter, in which event the greater benefit shall be payable.

e. The provisions of this section shall apply to members who retire or

separate in vested status from service with a participating employer who has elected to provide the career retirement plan; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring prior to July first, nineteen hundred seventy-four.

f. A participating employer who, within thirty days of the date this section becomes law, files a resolution electing to make contributions to the pension accumulation fund for the purpose of providing the career retirement plan pursuant to this section may specify April first, nineteen hundred sixty-nine as the date for the commencement of such plan. A resolution filed more than thirty days after the date this section becomes law shall specify an effective date for the commencement of the career retirement plan, which effective date shall be on or after the date of filing, provided, however, that a participating employer who elects to provide the benefits enumerated in section seventy-five-i of this article may specify the same effective date for this section.

§ 75-h. Career retirement plan for state employees; new plan. a. A member of the retirement system in the employ of the state may retire on or after attainment of age fifty-five and receive a retirement allowance consisting of the following, provided he has twenty or more years of total service:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension of one-fiftieth of final average salary for each year of service after March thirty-first, nineteen hundred sixty, and

3. A pension which, when added to the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to years of service prior to April first, nineteen hundred sixty computed on the basis of his rate of normal contribution, shall provide a retirement allowance of one-fiftieth of final average salary for each

year of service prior to April first, nineteen hundred sixty. For the purpose of computing the pension described in this paragraph, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivor's insurance coverage. For the purpose of computing the annuity described in this paragraph the rate of normal contribution for a member who (i) transferred into the retirement system shall not be less than the rate the member would have had if all his service had been rendered as a member of the retirement system, or (ii) is in a special service plan, or transfers into this plan from a special service plan, shall be the rate established for him under such plan.

4. In no event shall the pension provided pursuant to the provisions of this section exceed seventy-five per centum of a member's final average salary.

b. That portion of the pension reserve provided pursuant to the provisions of this section which is in excess of the pension reserve that would have been established had this section not been in effect shall not be included in computing any pension reserve payable pursuant to the provisions of section sixty of this chapter.

c. A member of the retirement system who enters or reenters the employ of the state on or after April first, nineteen hundred sixty-nine, shall not be entitled to have his retirement allowance computed pursuant to the provisions of this section unless:

(1) Such member renders five or more years of service in the employ of the state after such entry or reentry, or

(2) Immediately prior to service with the state, service was rendered while a member of a retirement system maintained by the state or a municipality thereof, operating on a sound actuarial basis and subject to the supervision of the department of financial services of this state, in a plan which provides service retirement benefits equal or superior to those provided under this section and at the date of his retirement such member would have been eligible for such benefits had he

not separated from service with such employer.

d. A member eligible for a vested retirement allowance pursuant to the provisions of section seventy-six of this chapter who separates from the employ of the state on or after April first, nineteen hundred seventy with twenty or more years of total service, and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance be entitled to have such allowance computed in the manner prescribed by this section.

e. A member in the employ of the state on March thirty-first, nineteen hundred seventy shall be entitled to have his retirement allowance computed on the basis of the provisions of section seventy-five-f of this chapter if a greater benefit would have been provided under such provisions.

f. The benefits hereinabove provided shall be payable to a member, including a member covered by the provisions of section eighty-nine of this article who is not in the negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law, unless such member would otherwise be entitled to a greater benefit under such other provisions of this article, in which event such greater benefit shall be payable.

g. The provisions of this section shall apply to members retiring or separating in vested status from state service on or after April first, nineteen hundred seventy.

§ 75-i. Improved career retirement plan for employees of participating employers. a. A participating employer which has elected, or which elects, pursuant to section thirty, thirty-one, or thirty-two of this article to provide the benefits of the career retirement plan for its employees as specified in section seventy-five-g of this article may elect pursuant to section thirty-three of this article to reduce the

number of years of total service required for career retirement benefits to twenty and have the fraction one-fiftieth of final average salary used to calculate the entire benefit for all years of credited service for such eligible members, provided, however, the maximum pension payable pursuant to this section shall not exceed three-quarters of final average salary. A member eligible for a vested retirement allowance pursuant to the provisions of section seventy-six of this chapter who separates from employment on or after April first, nineteen hundred seventy with twenty or more years of total service, and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance be entitled to have such allowance computed in the manner prescribed by this section.

b. The benefits hereinabove provided shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this chapter, in which event the greater benefit shall be payable.

c. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall be applicable only to those retiring or separating in vested status prior to July first, nineteen hundred seventy-four.

§ 76. Vested retirement allowance. a. A member who discontinues service other than by death or retirement:

1. who has credit for at least five years of total service, or

2. who has credit for at least five years of total service, including a minimum of five years of member service during which the member contributed to the system and/or participated in an increased-take-home-pay or non-contributory plan, and who does not withdraw his or her accumulated contributions, shall be entitled to make application pursuant to section seventy of this article for a vested

retirement allowance to be effective on or after the first day of the month following his or her attainment of sixty years of age. The retirement allowance provided by this section shall vest automatically upon such discontinuance of service by such member.

3. In the case of such a member who discontinues service other than by death or retirement after March thirty-first, nineteen hundred sixty-five, who had been contributing toward and/or participating in an increased-take-home-pay or non-contributory plan for retirement on a basis other than retirement at age sixty for five years preceding his or her discontinuance of service, he or she shall be entitled to make application for a vested retirement allowance to be effective on or after the first day of the month following his or her attainment of fifty-five years of age.

4. In the case of a member who discontinues service other than by death or retirement after March thirty-first, nineteen hundred sixty-six, who had been contributing toward retirement on the basis of the plan contained in section eighty of this article for at least five years, he or she shall receive at retirement, on the date when the member would have completed twenty years of service had he or she continued in the service covered by such section, a retirement allowance as computed in accordance with the provisions of subdivision b of this section.

b. The vested retirement allowance shall be computed and paid in accordance with the provisions of the plan of which the member had been a participant provided, however, that, except for those eligible for benefits pursuant to sections eighty or eighty-a of this chapter, if the service fraction used to compute the retirement allowance or the pension provides a benefit greater than that which would have been provided had the service fraction one-sixtieth been used to compute the benefit, the service fraction one-sixtieth shall be used to compute the vested retirement allowance unless such plan shall specify another fraction to be used to compute the vested retirement allowance. Except for those covered for retirement pursuant to sections eighty or eighty-a of this chapter the vested retirement allowance shall not be paid before the

member attains age fifty-five.

c. In the event of the death of such member prior to the effective date of his retirement his accumulated contributions shall be paid to his beneficiary or estate in accordance with section fifty-one of this article.

d. A member may withdraw his accumulated contributions at any time subject to the limitations contained in section fifty-one of this article. The withdrawal of a member's accumulated contributions shall terminate his right to a vested retirement allowance.

§ 77. Deferred applications for retirement. Notwithstanding other provisions of this chapter and of the rules and regulations established pursuant thereto, or any provisions of law to the contrary, a member of the retirement system, who is entitled to a retirement allowance by reason of having reached retirement age or by reason of having completed the requisite number of years of accredited service to qualify for a retirement allowance, may file with the retirement system a written application for retirement in the form required for such application, but requesting that such retirement shall become effective as of the time of his death, electing one of the options provided under section ninety of this chapter and nominating a beneficiary under said option as provided therein. In all such cases, the application shall be held by the retirement system until the member shall file a later application for retirement or until the death of the member occurring while in service, at which time his retirement shall become effective with the same benefits to the designated beneficiary as if such member had retired on the day immediately preceding his death.

If the beneficiary nominated under section ninety should predecease the member prior to his retirement, the member may name a new beneficiary in accordance with the provisions of section ninety. If the member fails to nominate a new beneficiary, the benefits payable hereunder shall be paid to the beneficiary nominated by the member under the provisions of section sixty of this article.

In the event that such a member does not file such an application for retirement in the form required by subdivision a of section seventy-four of this article, or does file such an application and sets forth a date as of which he desires to be retired, but such member dies before the effective date of such retirement, he shall be deemed to have retired on the day immediately preceding his death. If the member has not filed a form selecting an option under which he desired to be retired, as provided by subdivision c of section ninety of this article, he shall be considered as having elected to retire under option one as set forth in section ninety of this article. If at the time of his death there is not on file such a nomination of a beneficiary to receive the benefits under option one, such benefits shall be paid to the beneficiary designated under section sixty of this article. Alternatively, the beneficiary hereunder may elect to receive the ordinary death benefit and the reserve for increased take-home pay provided by section sixty of this article, plus the return of the member's accumulated contributions provided by section fifty-one of this article, plus loan insurance, if any, provided by section fifty of this article.

The provisions of this section and the privileges accorded hereunder, shall apply only in those cases where death occurs on or after July first, nineteen hundred sixty-two and on or before June thirtieth, nineteen hundred sixty-three.

§ 78. Supplemental retirement allowance. a. A supplemental retirement allowance shall be paid to pensioners of the retirement system who have retired prior to the calendar year nineteen hundred ninety-four. Such supplemental retirement allowance shall be payable on the basis provided for herein, commencing with a payment for the month of September, nineteen hundred ninety-nine and continuing through the month of August, two thousand. Said supplemental retirement allowance shall be a percentage of the retirement allowance otherwise payable, computed without optional modification. Said percentage, for each calendar year of retirement, is set forth in subdivision b of this section. Said supplemental retirement allowance shall be computed on the basis of the

first fourteen thousand dollars of such annual retirement allowance and shall be payable commencing September first, nineteen hundred ninety-nine to all disability pensioners and recipients of an accidental death benefit, and to other pensioners who have attained age sixty-two or who have been retired for ten or more years and have attained age fifty-five.

b. in calculating the supplemental retirement allowance in accordance with subdivision a of this section, the following percentages will be used for each calendar year of retirement, as appropriate:

Calendar year of retirement	Percentage
1993	1.5
1992	1.5
1991	1.5
1990	1.5
1989	2.8
1988	3.7
1987	4.5
1986	5.5
1985	6.3
1984	7.4
1983	8.3
1982	10.5
1981	12.5
1980	15.6
1979	19.9
1978	25.4
1977	30.3
1976	37.8
1975	42.5
1974	54.0
1973	73.0
1972	86.0
1971	96.7
1970	105.0
1969	141.8
1968	169.0

1967	195.9
1966	203.7
1965	230.5
1964	254.5
1963	278.6
1962	310.0
1961	330.0
1960	340.0
1959	390.0
1958	427.3
1957	442.3
1956	460.2
1955	468.6
1954	466.5
1953	470.7
1952	475.0
1951	486.1
1950	532.3
1949	540.3
1948	532.3
1947	583.4
1946	681.5
1945	746.6
1944	765.9
1943	780.9
1942	834.9
1941	936.7
1940	988.5
1939	996.4
1938	980.8
1937	958.3
1936	996.4
1935	1012.4
1934	1037.3
1933	1072.3
1932	1012.4
1931	902.6

c. The supplemental retirement allowance shall be rounded off to the nearest dollar.

d. The benefits hereinabove provided for shall be in lieu of the benefits presently provided by articles four and six of this chapter unless such benefits are in excess of those provided by this section, in which latter case such benefits shall be paid by the retirement system pursuant to this section.

e. Contributions shall be made to the pension accumulation fund by, or on account of, the state and each participating employer at a rate fixed by the actuary, which shall be computed to be sufficient to provide the benefits established by this section.

f. The supplemental retirement allowance authorized by this section shall also be paid in the same manner set forth above to a person sixty-two years of age or older who is retired, or any person retired for disability regardless of age, or any spouse qualifying pursuant to subdivision h of this section, and who receives, as a result, a retirement allowance or pension from any state administered and operated retirement or pension plan or system, not including, however, the New York state teachers retirement system.

g. The cost of providing supplemental retirement allowance payments pursuant to subdivision f of this section shall be paid from the pension accumulation fund.

h. Notwithstanding any other provision of law, (i) the spouse of a deceased pensioner, who had elected one of the options pursuant to this chapter which provides that benefits are to be continued for the life of such spouse after the death of the pensioner, or (ii) the spouse of a deceased pensioner who had provided pursuant to a closed local pension plan which was subsequently assumed by the state, that benefits are to be continued for the life of such spouse after the death of the pensioner, shall be entitled to receive a monthly supplemental

retirement allowance pursuant to this subdivision. Said monthly supplemental retirement allowance shall be equal in amount to one-half of the monthly supplemental retirement allowance which the pensioner would be receiving if living, and shall commence upon the death of the pensioner.

§ 78-a. Cost-of-living adjustment. a. A cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age sixty-two and have been retired for five years; (ii) all pensioners who have attained age fifty-five and have been retired for ten years; (iii) all disability pensioners regardless of age who have been retired for five years; and (iv) all recipients of an accidental death benefit regardless of age who have been receiving such benefit for five years.

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of this section and any prior year's cost-of-living adjustment derived from this section. Said percentage is set forth in subdivision d of this section.

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section.

d. The percentage referred to in this section shall be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent.

e. Said cost-of-living adjustment shall be payable in monthly installments and shall take effect September first of each year commencing with a payment for the month of September, two thousand one, or, if later, as soon as practicable after the retired member first becomes eligible to receive the benefits provided pursuant to subdivision a of this section.

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section seventy-eight of this title.

g. Notwithstanding any other provision of law, the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits

pursuant to this section. Said benefits shall be fifty percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand, or (ii) the month following the death of the deceased retired member, whichever is later.

h. The benefits provided pursuant to this section shall be in lieu of the benefits presently provided by section five hundred ten or article four or six of this chapter unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

§ 79. Cafeteria plans. To the extent permitted by section one hundred twenty-five of the internal revenue code and any regulations adopted pursuant thereto, any salary reduction elected by an employee who is a participant in either the New York state employees' retirement system or the New York state teachers' retirement system under a cafeteria plan or flexible benefit plan shall be considered part of annual compensation for the purpose of computing employer and employee retirement plan contributions and for computing retirement benefits.

TITLE 9

SPECIAL RETIREMENT PLANS APPLICABLE TO SPECIFIED CLASSES OF MEMBERS

- Section 80. Retirement of members of the legislature.
- 80-a. Legislative and executive retirement plan; new plan.
89. Retirement of members in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or who are security hospital treatment assistants; new plan.
- 89-a. Optional retirement of sheriffs, under-sheriffs and regular deputy sheriffs.
- 89-b. Optional twenty year retirement plan for sheriffs, under-sheriffs, and regular deputy sheriffs in counties which have elected to provide same.
- 89-c. Retirement of members in New York state thruway

authority service.

- 89-d. Optional twenty year retirement plan for detective investigators, criminal investigators, senior criminal investigators, confidential criminal investigators, assistant criminal investigators and criminal investigators/arson in the office of a district attorney in counties which have elected to provide same.
- 89-e. Retirement of correction officers of the Westchester county correction department; alternative eligibility for retirement.
- 89-f. Retirement of county correction officers in Suffolk county.
- 89-g. Retirement of county correction officers, uniformed correction division personnel, sheriffs, deputy sheriffs and undersheriffs in Nassau county.
- 89-h. Retirement of sheriffs, undersheriffs, deputy sheriffs, correction officers and identification officers in Albany county.
- 89-i. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in St. Lawrence county.
- 89-j. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Jefferson county.
- 89-k. Retirement of deputy sheriffs and correction officers in Onondaga county.
- 89-l. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Orleans county.
- 89-m. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Broome county.
- 89-n. Computation of twenty-five years of service; correction officers.
- 89-n*2. Retirement of deputy sheriffs-jailors in Monroe county.
- 89-o. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Greene county.
- 89-p. Optional twenty-five year retirement plan for certain sheriffs, undersheriffs, deputy sheriffs and correction officers whose employer elects to provide

same.

- 89-q. Retirement of traffic officers with the town of Elmira.
- 89-r. Retirement of county park police officers in Suffolk county.
- 89-s. Retirement of members who serve as peace officers in the Suffolk county probation department.
- 89-s*2. Retirement of members who serve as ambulance medical technicians, ambulance medical technician/supervisors and members who perform ambulance medical technician related services in the Nassau county police department.
- 89-s*3. Retirement of members who serve as peace officers in the Nassau county probation department.
- 89-ss. Retirement of members employed as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles in a participating Suffolk county fire district.
- 89-t. Optional twenty-five year retirement plan for county probation officers.
- 89-t*2. Alternative retirement benefits for safety officers.
- 89-u. Retirement of county sheriffs, undersheriffs, deputy sheriffs, state and county correction officers; portability of service credit between the state and county special twenty-five year retirement plans.
- 89-v. Retirement of deputy sheriffs-civil in Rockland county.
- 89-v*2. Retirement of paramedics employed by the police department in the town of Tonawanda.
- 89-v*3. Retirement of superior correction officers in Rockland county.
- 89-w. Optional twenty-five year retirement plan for county fire marshals in the county of Nassau.
- 89-x. Retirement of deputy sheriffs-civil in Monroe county.
- 89-y. Twenty-five year retirement plan for firefighters employed by the division of military and naval affairs.

§ 80. Retirement of members of the legislature. a. As used in this section the term "service as a member of the legislature" shall mean service as a senator or assemblyman in the legislature of the state of New York.

b. Any member of the legislature may elect to contribute to the retirement system on the basis of retirement upon his completion of twenty years of service as a member of the legislature on an allowance of one-fortieth of his final average salary for each year of service as a member of the legislature not in excess of twenty years. Such election shall be in writing and shall be duly executed and filed with the comptroller.

c. A member of the legislature who elects to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, a sum which together with contributions previously made will provide an annuity equal to one-eightieth of his final average salary for each year of service as a member of the legislature rendered prior to the time when he shall first become eligible for retirement in accordance with this section. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. Such member may discontinue contributions upon completion of twenty years of service as a member of the legislature. At the time of his retirement, such member may elect to make sufficient additional contributions required to provide a retirement allowance of one-half of his final

average salary.

d. A member contributing on the basis of this section shall be entitled to retire after the completion of twenty years of service as a member of the legislature, by filing an application therefor in a manner similar to that provided in section seventy of this article. He thereupon shall receive on retirement a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

3. A pension equal to one-quarter of his final average salary.

e. The increased pensions to any member as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the retirement system shall compute the additional contribution for each member who elects the special benefits provided under this section. Such additional contribution shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions, and upon approval by the comptroller, the additional contributions shall be certified by the comptroller and shall be included in the annual appropriation to the pension accumulation fund of the retirement system in the manner provided in section sixteen of this article.

f. One year or more after the filing thereof, a member may withdraw his election to contribute pursuant to this section on the basis of retirement upon completion of twenty years of service as a member of the legislature. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. Such member thereafter shall contribute on the basis of his rate of normal contribution. Such

member, upon application at any time prior to retirement and with the approval of the comptroller, shall be entitled to a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution.

g. On and after April first, nineteen hundred sixty-eight, no election may be made to contribute under this section.

h. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 80-a. Legislative and executive retirement plan; new plan. a. As used in this section the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "Legislative and executive member". A person who is lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, and elects to come under the provisions of this section.

1-a. "Legislative employee" means (a) an officer or employee of the senate; (b) an officer or employee of the assembly; (c) an officer or employee of a joint legislative employer. For the purposes of this subdivision, the term "joint legislative employer" shall mean legislative commissions, committees, task forces (irrespective of intended or actual duration), joint legislative commissions, councils or similar bodies whose membership is comprised of both senators and assembly members, or which consist of commissioners, or the majority of whose membership is appointed by one or more of the following: the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and/or the minority leader of the assembly, and shall include officers and employees of the legislative library, legislative health service, legislative messenger service and

including components of the senate or assembly that are so identified pursuant to the legislative law; and further shall include officers and employees of a joint legislative employer which at the time of the service satisfies the foregoing definition of "joint legislative employer". "Legislative service" or "legislative employment" shall mean service or employment as a legislative employee as defined herein.

2. "Annual employee". A person employed by the legislature on an annual payroll for not less than twenty-six weeks in any calendar year (exclusive of employees of joint legislative committees or temporary commissions) regardless of whether or not such service is consecutive and regardless of whether rendered before or after the effective date of this act.

3. "Session employee". A person employed by the legislature on a session payroll during the entire period of a regular session of the legislature. For the purposes of this paragraph, the entire period of a regular session of the legislature shall mean the period covered by the session payroll schedule adopted for administrative purposes and certified to by the temporary president of the senate or the speaker of the assembly, as the case may be, at the commencement of a regular session of the legislature.

4. "Final average salary". The average yearly and/or annual compensation earned during any three consecutive years of creditable service, as selected by such member at the time of retirement.

5. "Yearly compensation". The total salary or wages and statutory allowance paid in any calendar year for creditable service to the lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature for any purpose, and/or while a delegate, officer or employee of the conventions to revise and amend the constitution of the state in the years nineteen hundred thirty-eight or nineteen hundred sixty-seven, or both.

6. "Annual compensation". The total salary or wages paid in any calendar year to a person for any creditable service under this section,

other than service as lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature.

7. "Creditable service". Regardless of whether rendered before or after the effective date of this section, service rendered as lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, and service rendered to the state, any political subdivision thereof or a public benefit corporation for which credit is granted under the provisions of this or any other section of this chapter, and military service. A senator or an assemblyman or a session employee who serves during an entire regular legislative session, and an annual employee who serves not less than twenty-six weeks during any calendar year shall be credited with service for the entire year. Notwithstanding the foregoing provisions of this paragraph, service rendered to the state, any political subdivision thereof or a public benefit corporation for which credit is granted under the provisions of any other section of this chapter shall not be deemed to be creditable service, as herein defined, if rendered by a person who becomes a member under the provisions of this section on and after July first, nineteen hundred seventy-two.

8. "Military service". (a) Prior military service as defined in paragraphs d and e of subdivision twenty-four of section two of this chapter; and

(b) Service in war after world war I as defined in subdivisions twenty-nine, twenty-nine-a, thirty, and thirty-one of section two of this chapter; and

(c) In the case of a senator or assemblyman, service, not in excess of three years and not otherwise creditable under subparagraph (b) of this paragraph, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, by a person who was a resident of the state at the time of entry into service and at the time of being discharged therefrom (i) under honorable circumstances, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and was a resident of the

state at the time of entry into service and at the time of receiving a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and was a resident of the state at the time of entry into service and at the time of receiving a discharge other than bad conduct or dishonorable from such service.

9. "Service fraction". The fraction by which a member's final average salary times his years of service is multiplied to determine such member's pension.

b. Any person who is lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature may elect to come under the provisions of this section by filing an application therefor with the comptroller on or before April first, nineteen hundred sixty-nine or within one year after he last becomes lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, whichever is later. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

c. 1. A legislative and executive member who, while a member of this retirement system under the provisions of any other section of this chapter, elected, prior to August nineteenth, nineteen hundred sixty-seven, to contribute at a rate of contribution determined in accordance with the provisions of such section, shall continue to contribute at such rate until such election is withdrawn as provided in subdivision e of section seventy-five-a of this chapter.

2. No contribution may be made by a legislative and executive member under the provisions of this section who:

(a) becomes a member of the retirement system on and after April first, nineteen hundred sixty-eight; or

(b) was a non-contributory member of the retirement system at the time he elects to come under the provisions of this section.

3. In addition, every person who was a member of this retirement system prior to August nineteenth, nineteen hundred sixty-six may elect or may continue to make contributions pursuant to subdivision i of section twenty-one of this chapter.

d. 1. A legislative and executive member who does not withdraw his contributions made prior to April first, nineteen hundred sixty, shall be entitled to retire, subject to the provisions of subdivision h of this section, upon his:

(a) Completion of twenty years of service as a state senator or assemblyman, which may include service credited under subparagraph (c) of paragraph eight of subdivision a of this section, or

(b) Completion of at least five years of service as a legislative and executive member, and

(c) Completion of at least five additional years of creditable service, and

(d) Attainment of age fifty-five,
by filing an application therefor in a manner similar to that provided in section seventy of this article.

2. (a) Upon completion of such service and upon retirement, each such legislative and executive member shall receive a pension for creditable service prior to April first, nineteen hundred sixty which, together with an annuity, if any, which shall be the actuarial equivalent of his accumulated normal contributions attributable to the period prior to April first, nineteen hundred sixty, and accumulated contributions paid to receive credit for military service as defined in subparagraph c of paragraph eight of subdivision a of this section, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of such service.

For the purpose only of determining the amount of such pension provided for in this subparagraph (a), the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of other than normal contributions, and if it were not reduced by reason of the legislative and executive member's election to

decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old age and survivors insurance coverage.

(b) In addition, each such legislative and executive member shall receive: (1) An additional annuity which shall be the actuarial equivalent of his accumulated contributions other than those required pursuant to subparagraph (a) of paragraph two of this subdivision or made on and after April first, nineteen hundred sixty to this retirement system, or to a local pension system in the case of a member who transfers his membership to this retirement system on and after such date pursuant to section forty-three of this chapter; and

(2) An additional pension of one-fortieth of such member's final average salary for each year of creditable service after April first, nineteen hundred sixty.

3. In no event shall the sum total of the pensions payable under this section to any member exceed seventy-five per cent of such member's final average salary.

e. Any legislative and executive member who was a member of this retirement system pursuant to the provisions of any other section of this chapter, and/or who was a member of a local pension system and who receives or received service credit therefor in this retirement system pursuant to section forty-three of this chapter, and/or who renders or rendered military service, shall receive full credit under this section for such service. In addition to credit for military service previously granted or subsequently granted pursuant to other provisions of this chapter, credit for military service as defined in subparagraph (c) of paragraph eight of subdivision a of this section shall be granted upon payment by the member of both the amount of contributions which such member would have been required to pay into the annuity savings fund and the amount which the state would have been required to pay into the pension accumulation fund if such service had been legislative service pursuant to section eighty of this chapter. No credit shall be allowed for military service if, but for the member's failure to avail himself of the privilege of transfer within the time and in the manner provided in section forty-three of this article, credit for such service could

have been obtained upon transfer from another retirement system pursuant to such section, nor shall such credit for military service as defined in subparagraph (c) of paragraph eight of subdivision a of this section be allowed if application for such credit is made later than one year after first becoming a member of the legislative and executive plan set forth in this section. Such contributions shall be paid in a lump sum or in such installments as the comptroller shall approve, and shall be reduced by the amount of applicable contributions, if any, made or transferred to this retirement system under any section of this chapter for such service.

f. 1. A legislative and executive member who discontinues service other than by death or retirement after March thirty-first, nineteen hundred sixty-eight and who has received credit for service on the basis of the plan contained in this section for at least ten years and who does not withdraw his contributions made prior to April first, nineteen hundred sixty shall be eligible to retire on the date when the member would have otherwise been eligible to retire pursuant to subdivision d of this section had he continued in the service covered by this section, and shall receive a retirement allowance computed in accordance with the provisions of paragraph two of this subdivision.

2. (a) Such vested retirement allowance shall consist of a pension for creditable service prior to April first, nineteen hundred sixty which, together with an annuity, if any, which shall be the actuarial equivalent of his accumulated normal contributions attributable to the period prior to April first, nineteen hundred sixty and accumulated contributions paid to receive credit for military service as defined in subparagraph c of paragraph eight of subdivision a of this section, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of such service.

For the purpose only of determining the amount of such pension provided for in this subparagraph (a), the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of other than normal contributions, and if it were not

reduced by reason of the legislative and executive member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old age and survivors insurance coverage.

(b) In addition, such vested retirement allowance shall include:

(1) an additional annuity which shall be the actuarial equivalent of his accumulated contributions other than those required pursuant to subparagraph a of paragraph two of this subdivision or made on and after April first, nineteen hundred sixty, to this retirement system, or to a local pension system in the case of a member who transfers his membership to this retirement system on and after such date pursuant to section forty-three of this chapter, and

(2) an additional pension of one-fortieth of such member's final average salary for each year of creditable service after April first, nineteen hundred sixty.

g. 1. Any legislative and executive member, who has vested rights under subdivision f of this section, who terminates his employment as lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, and who obtains other employment in the service of the state, a political subdivision thereof or a public benefit corporation participating in this retirement system or maintaining a local pension system from or to which a person may transfer pursuant to section forty-three of this chapter, may elect to continue to be a legislative and executive member and be covered by, and make contributions in accordance with, the provisions of this section in the same manner as during his period of service as lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature. In such case, notwithstanding the provisions of item (2) of subparagraph (b) of paragraph two of subdivision d, and item (2) of subparagraph (b) of paragraph two of subdivision f, the additional pension earned under this subdivision g shall be computed by multiplying the member's final average salary for each such year of service by the service fraction applicable to the section of this chapter or local pension system which otherwise would have been applicable to such member.

2. Notwithstanding any general, special or local law, charter or code, any such member who makes the election provided in this subdivision shall not be eligible for membership in the local pension system maintained by the political subdivision or public benefit corporation by which he is employed.

3. Every political subdivision or public benefit corporation which employs any such member shall make contributions to this retirement system on behalf of such member equal to the amount of contributions otherwise required of the political subdivision or public benefit corporation by this retirement system in the case of a participating employer, or by the local pension system in the case of a non-participating employer. Such contributions shall be transferred to this retirement system at such times and in such manner as shall be prescribed by the comptroller.

h. 1. No member shall be eligible to retire under the provisions of subdivision d of this section unless he was a legislative and executive member and/or elected to be continued as a legislative and executive member pursuant to subdivision g of this section for at least three years immediately prior to his date of retirement, or was a senator or assemblyman for at least two years immediately prior to his date of retirement.

2. No member shall be eligible to retire under the provisions of subdivision f of this section unless he was a legislative and executive member and/or elected to be continued as a legislative and executive member pursuant to subdivision g of this section for at least three years immediately prior to his discontinuance of service or was a senator or assemblyman for at least two years immediately prior to his discontinuance of service.

i. Whenever any death benefit, based upon eligibility for retirement, is granted by any other provision of this chapter or any other law, any legislative and executive plan member shall be considered to have been eligible to retire after the completion of twenty years of creditable

service as defined in this section, including five years as a legislative and executive member, notwithstanding any other requirement contained in this section respecting minimum age for retirement.

j. On and after July first, nineteen hundred seventy-three, no person may elect to be covered under the provisions of this section.

k. The provisions of this section shall be controlling notwithstanding any provision of this chapter to the contrary.

§ 89. Retirement of members in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or who are security hospital treatment assistants; new plan.

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision, as hereinafter defined, who enters or re-enters service on or after the effective date of this section, or who is a security hospital treatment assistant who enters or reenters service on or after the effective date of the amendment permitting security hospital treatment assistants to be covered by this section, shall contribute on the basis provided for by this section.

b. Any member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision, as hereinafter defined, who entered such service prior to the effective date of this section may, on or before September first, nineteen hundred sixty-six, elect to come under the provisions of this section. Such election shall be in writing and shall be duly executed and filed with the comptroller.

c. Any member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision, as hereinafter defined, who entered such service prior to the effective date of this section, may, on or before December thirty-first, nineteen hundred sixty-six, elect to come under the provisions of this section. Such election shall be in writing and shall be duly executed and filed

with the comptroller. Any such member who has made an election as set forth herein on or before December thirty-first, nineteen hundred sixty-five, shall be permitted to withdraw the same and in like manner make a new election on or before December thirty-first, nineteen hundred sixty-six.

d. A member who elects or is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his or her compensation similarly determined. Such latter proportion shall be computed to provide at the time when he or she shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his or her final average salary for each year of service as a member rendered after May first, nineteen hundred sixty-five, and prior to the attainment of the age when he or she shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his or her employer contributes pursuant to such section toward pensions-providing-for-increased-take-home pay. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service as defined in subdivision i of this section, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section seventy of this article. He or she thereupon shall receive, on retirement a retirement allowance consisting of:

1. An annuity, which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement, plus,

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserves for-increased-take-home pay to which he or she may then be entitled, if any, shall equal one-fiftieth

of his or her final average salary for each year of creditable service in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or for each year of creditable service as a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter defined. This pension shall not exceed the amount needed to make the total amount of the benefits provided under paragraphs one and two of this subdivision e equal to one-half of his or her final average salary.

3. An additional pension equal to the pension for any creditable service rendered while not in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision and rendered while not serving as a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter defined, as provided under paragraphs two and three of subdivision a of section seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service for which he receives credits under this article, and

(b) Not increase the total allowance to more than one-half of his or her final average salary.

For the purpose only of determining the amount of the pension provided herein, the annuity shall be computed as it would be:

(aa) if not reduced by the actuarial equivalent of any outstanding loan, and

(bb) if not increased by the actuarial equivalent of any additional contributions, and

(cc) if not reduced by reason of the member's election to decrease his or her annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

f. The increased pensions to members of the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or to members who are security hospital treatment

assistants under the jurisdiction of the office of mental health, as provided by this section, shall be paid from additional contributions made by the state on account of such member. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions.

g. In computing the twenty-five years of completed service of a member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or of a member who is a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter defined, full credit shall be given and full allowance shall be made for service of such member in war after world war 1 as defined in section two of this chapter, provided such member at the time of his or her entrance into the armed forces was in state service.

h. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

i. As used in this section, "uniformed persons" or "uniformed personnel" in institutions under the jurisdiction of the department of corrections and community supervision or "security hospital treatment assistants" under the jurisdiction of the office of mental health mean officers or employees holding the titles hereinafter set forth in institutions under the jurisdiction of the department of corrections and community supervision or under the jurisdiction of the office of mental health, namely: correction officers, prison guards, correction sergeants, correction lieutenants, correction captains, deputy assistant superintendent or warden, deputy warden or deputy superintendent, superintendents and wardens, assistant director and director of correction reception center, director of correctional program, assistant director of correctional program, director of community correctional center, community correctional center assistant, correction hospital officers, male or female, correction hospital senior officers,

correction hospital charge officer, correction hospital supervising officer, correction hospital security supervisor, correction hospital chief officer, correction youth camp officer, correction youth camp supervisor, assistant supervisor, correctional camp superintendent, assistant correctional camp superintendent, director of crisis intervention unit, assistant director of crisis intervention unit, security hospital treatment assistants, security hospital treatment assistants (Spanish speaking), security hospital senior treatment assistants, security hospital supervising treatment assistants and security hospital treatment chiefs. Previous service rendered under the titles by which such positions were formerly designated and previous service rendered as a narcotic addiction control commission officer shall constitute creditable service. Notwithstanding any provision of law to the contrary, any employee of the department of corrections and community supervision who became enrolled under this section by reason of employment as a uniformed person in an institution under the jurisdiction of the department of corrections and community supervision shall be entitled to full retirement credit for, and full allowance shall be made under this section for the service of such employee, not to exceed twelve years, while assigned to the training academy or central office, in the following titles, namely: correction officer, correction sergeant, correction lieutenant, correction captain, correctional services investigator, senior correctional services employee investigator, correctional services fire and safety coordinator, director of special housing and incarcerated individual disciplinary program, assistant director of special housing and incarcerated individual disciplinary program, assistant chief of investigations, director of CERT operations, correctional facility operations specialist, director of security staffing project, correctional security technical services specialist, assistant commissioner and deputy commissioner.

j. Notwithstanding any provisions of subdivision a, b or i of this section to the contrary, a member who is in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law and who has elected or is required to contribute in accordance with this section may, on or before

March thirty-first, nineteen hundred seventy-three, elect to come under the provisions of section seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

k. Any member who, on or before the effective date of this provision, is a security hospital treatment assistant under the jurisdiction of the office of mental health may, by filing an election within one year after the effective date of this provision, elect to be subject to the provisions of this section. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable.

§ 89-a. Optional retirement of sheriffs, under-sheriffs and regular deputy sheriffs. (a) Any member who is a sheriff or under-sheriff, or a regular deputy sheriff in any county who is engaged directly in criminal law enforcement activities, may elect to contribute to the retirement system on the basis of retirement after the completion of twenty-five years of total creditable service, provided the member has reached age flfty, or upon attainment of age sixty-five, on an allowance of one-fiftieth of his final average salary for each year of creditable service not in excess of twenty-five years, except as hereinafter otherwise provided. Such election shall be in writing and shall be duly executed and filed with the comptroller on or before July first, nineteen hundred sixty-nine. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller

(b) On and after the date this section takes effect, every sheriff, under-sheriff and regular deputy sheriff entering or re-entering service as such and within one year from the date of entry or re-entry, and regardless of age, may elect to contribute on the basis provided by this section. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

(c) As used in this section "creditable service" shall include (1) in the case of a sheriff or under-sheriff, any and all services performed as a sheriff and/or under-sheriff of a county and all criminal law enforcement services performed as a regular deputy sheriff of a county,

provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty percentum or more of his service as a regular deputy sheriff and (2) in the case of a regular deputy sheriff, all criminal law enforcement services performed as a regular deputy sheriff of a county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty percentum or more of such service and any and all services performed as a sheriff and/or under-sheriff of a county.

(d) Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

(e) A sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the regular deputy sheriffs in his employ who are engaged directly in criminal law enforcement activities.

(f) A member, who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of creditable service and as a member rendered after this section becomes effective and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his employer contributes pursuant to such section toward

pensions-providing-for-increased-take-home-pay. No such member shall be required to make contributions after completing twenty-five years of such service.

(g) A member, excepting a sheriff, contributing on the basis of this section at the time of retirement, shall retire either (a) after the completion of twenty-five years of total creditable service, provided he has reached age fifty, or (b) upon the attainment of age sixty-five. Application therefor may be filed in a manner similar to that provided in section seventy of this article.

(1) Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

(2) Upon attainment of age sixty-five and upon retirement without completion of twenty-five years of such service, each such member shall receive a pension which together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-fiftieth of his final average salary for each year of creditable service in a sheriff's department. Every such member shall also be entitled to an additional pension equal to the pension for any creditable service rendered while not an employee of a sheriff's department as provided under paragraphs three and four of subdivision a of section seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of his final average salary.

For the purpose only of determining the amount of the pension provided in this subdivision, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any

additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

(h) The entire additional cost for the increased pension to members, as provided by this section, shall be paid by the members. The county by which the members are employed may, however, by appropriate action, elect to assume and pay all or part of the additional cost. The actuary of the retirement system shall compute the extra contribution required for each member who elects to receive the special benefits provided under this section. Such extra contribution shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such extra contributions shall be certified by him to the appropriate boards of supervisors, and such a board shall advise each member affected the amount of extra contribution attributable to him. Where a county has elected to assume and pay all or part of the additional cost, the amount of extra contributions in connection therewith shall be included in the annual appropriation of the county for the sheriff's department and such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system. The remaining extra contributions, if any, shall be paid, in appropriate amounts, by the member or members whose extra contribution was not included in the annual appropriation of the county for the sheriff's department, and payment is to be made to the retirement system in such manner as said system may prescribe.

(i) In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after world war I as defined in section two of this chapter, provided such member at the time of his entrance into the military service of the United States was then a resident of this state and in the service of a sheriffs department and (1) had been honorably discharged or released under honorable circumstances from such military service, or (2) has a qualifying condition, as defined in section three hundred fifty of the

executive law, and received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, and such member returned to the service of a sheriffs department within the time limited by section two of this chapter.

(j) Any amounts credited to the member's annuity savings account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision (g) of this section, exclusive of any contributions made under the provisions of subdivision i and/or j of section twenty-one of this chapter, may at the option of the member at the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

(k) The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 89-b. Optional twenty year retirement plan for sheriffs, under-sheriffs, and regular deputy sheriffs in counties which have elected to provide same. (a) Any member who is a sheriff, under-sheriff or a regular deputy sheriff in any county who is engaged directly in criminal law enforcement activities, may elect to contribute to the retirement system on the basis of retirement after the completion of twenty years of total creditable service pursuant to this section within one year after the county wherein he is so engaged elects to make the benefits provided herein available. One year or more after the filing of an election, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

(b) On and after a county elects to make the benefits provided herein available, every sheriff, under-sheriff or regular deputy sheriff entering or re-entering service as such and within one year from the date of entry or re-entry may elect to contribute to the retirement system pursuant to this section. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

(c) Elections shall be in writing and shall be duly executed and filed

with the comptroller.

(d) A sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the regular deputy sheriffs in his employ who are engaged directly in criminal law enforcement activities, and shall likewise so certify to the chief executive officer of his county and to the chairman of the board or body of his county which appropriates the funds to pay for the plan's benefits.

(e) A member who elects or is required to contribute in accordance with subdivision (a) of this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-eightieth of his final average salary for each year of creditable service and as a member rendered after the county wherein he is engaged elected the provisions of this section and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as the county wherein he is engaged contributes pursuant to such section towards pensions-providing-for-increased-take-home-pay. Such member's contribution, reduced as aforesaid, shall also be appropriately further reduced by any multiple of twenty-five percentum of such contribution, reduced as aforesaid, which the county wherein he is engaged has elected to contribute on his behalf in lieu of such member's contributions pursuant to this subdivision. No such member shall be required to make contributions after completing twenty years of such service, except as is provided in such subdivision (m) of this section.

(f) (1) A member then covered by the provisions of this section shall be entitled to retire after the completion of twenty years of total creditable service and, except a sheriff, shall retire upon attainment of age sixty by filing an application therefor with the comptroller.

(2) Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which is the actuarial equivalent of his accumulated

contributions, if any, at the time of his retirement, and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

(3) Upon attainment of the mandatory retirement age of sixty years, or, in the case of a sheriff, upon attainment of the age of sixty years, and upon retirement without completion of twenty years of such service, each such member shall receive a pension which together with an annuity which is the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of creditable service in a sheriff's department. Every such member shall also be entitled to an additional pension for other service as provided under paragraphs three and four of subdivision a of section seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of his final average salary.

(4) For the purpose only of determining the amount of the pension provided in subdivisions (f) and (m), the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

(g) The entire additional cost for the increased pensions to members, as provided by this section, shall be paid from additional contributions made by the participating employer on account of such members. The actuary of the retirement system shall compute the additional contribution required for each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement

system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the participating employer for its sheriff's department. Such amount shall be paid to the pension accumulation fund of the retirement system.

(h) As used in this section "creditable service" shall include (1) in the case of a sheriff or under-sheriff, any and all services performed as a sheriff and/or under-sheriff of a county and all criminal law enforcement services performed as a regular deputy sheriff of a county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty percentum or more of his service as a regular deputy sheriff and (2) in the case of a regular deputy sheriff, all criminal law enforcement services performed as a regular deputy sheriff of a county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty percentum or more of such service and any and all services performed as a sheriff and/or under-sheriff of a county.

(i) Credit for service as a member or officer of the state police, or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to this article or article eight of this chapter.

(j) The county wherein the member is engaged may, in its initial action taken under this section or subsequent thereto, elect to assume and pay all or part of the additional cost on account of service rendered to the county prior to the effective date of such election and, in addition, may in its initial action taken under this section or subsequent thereto, elect to assume and pay all or any multiple of twenty-five per centum of the additional cost on account of service

rendered on and after the effective date of such election. The county shall pay the additional cost so assumed by any such election by means of annual contributions which shall be determined by the actuary.

(k) A member, excepting a sheriff, contributing on the basis of this section at the time of retirement, shall be retired on December thirty-first of the year in which he attains sixty years of age. Application therefor may be filed in a manner similar to that provided in section seventy of this article.

(l) The benefits of this section shall be available only to those members whose employer elects to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller.

(m) Upon completion of twenty years of total creditable service and upon retirement, each member covered by the plan provided by this section shall receive, for each year of creditable service in excess of twenty, but not more than ten such years, an additional retirement allowance equal to one-sixtieth of his final average salary for each such year of such service; provided, however, that this benefit shall be available only after the county employing such member elects specifically to provide this benefit. Member contributions, if any, shall be computed in a manner consistent with subdivision (e) of this section so as to provide an annuity of one hundred and twentieth of final average salary for each such year of service and employers shall have the further option to reduce contributions in a manner similar to that provided in said subdivision (e).

(n) That portion of the pension reserve required pursuant to this section which is in excess of the pension reserve that would have been required pursuant to section eighty-nine-a of this article, had the number been covered thereunder, shall not be included in computing any benefit payable pursuant to the provisions of section sixty of this article.

(o) The provisions of this section shall, subject to the provisions of section seventy-six of this article, apply to members who, on and after June first, nineteen hundred seventy and prior to June first, nineteen hundred seventy-four retire or separate in vested status from service with a participating employer who has elected to provide the benefits hereunder.

*** § 89-c. Retirement of members in New York state thruway authority service.**

a. By the adoption, filing and approval of a resolution in the manner provided by section thirty-one of this chapter, the New York state thruway authority may elect to make contributions to the pension accumulation fund for the purpose of providing guaranteed service retirement benefits pursuant to this section for members who are in its employ at the time of their retirement. Such resolution shall specify the effective date which shall be on or after the date of such filing for the commencement of such guaranteed retirement benefits.

b. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "Authority." The New York state thruway authority.

2. "Authority employee." An employee of the New York state thruway authority, who is such an employee immediately preceding the effective date of his retirement or immediately preceding his discontinuance of service as provided in paragraph (1) of subdivision e of this section; provided, however, that:

(1) he is an authority employee on the effective date provided in subdivision a of this section; or,

(2) he shall have rendered two or more years of service as an authority employee after such effective date.

c. (1) Any member who is or becomes an authority employee on or after the effective date provided in subdivision a of this section may, by written notice duly acknowledged and filed with the comptroller on or before March thirty-first, nineteen hundred seventy, elect to remain a member pursuant to the provisions of this section. Upon such election he shall be deemed to have accepted the service retirement and vesting provisions of this section in lieu of the similar provisions otherwise

provided in this article.

(2) Every such member shall be entitled to allowable service credit as provided in section forty-one of this chapter, which shall be used in determining the benefits to be provided upon retirement under this section.

d. Any authority employee member may retire if he shall have attained the age of fifty-five years or over upon compliance with the terms of subdivision a of section seventy of this chapter. Any such member who attains age seventy shall be retired on the first day of the calendar month next succeeding such event, in accordance with the provisions of subdivisions b and c of section seventy of this chapter. Upon such retirement, after the effective date specified in subdivision a of this section and prior to April first, nineteen hundred seventy, he shall receive a guaranteed service retirement benefit computed in accordance with that one of the following paragraphs of this subdivision which is applicable to him.

(a) If his total allowable service credit at the time of retirement is less than twenty-five years, his retirement benefit shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

2. For member service rendered on and after April first, nineteen hundred sixty and April first, nineteen hundred seventy, a pension computed on the basis of one-sixtieth of final average salary for each year of such member service.

3. For member service rendered between April first, nineteen hundred thirty-eight and March thirty-first, nineteen hundred sixty, a pension which, together with the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, will provide a retirement allowance of one-sixtieth of final average salary for each year of such member service.

4. For member service rendered prior to April first, nineteen hundred

thirty-eight, a pension of one-one hundred twentieth of final average salary for each year of such member service.

5. For each year of prior service, a pension of one-sixtieth of final average salary.

(b) If his total allowable service credit at the time of retirement is twenty-five years or more but less than thirty years, his retirement allowance shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

2. For member service rendered on and after April first, nineteen hundred sixty, during his first twenty-five years of total service, a pension computed on the basis of one-fiftieth of final average salary for each year of such member service. For member service rendered on and after April first, nineteen hundred sixty, during his service in excess of twenty-five years of total service, a pension computed on the basis of one-sixtieth of final average salary for each year of such member service.

3. For member service rendered prior to April first, nineteen hundred sixty, during his first twenty-five years of total service, a pension which, together with the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, will provide a retirement allowance of one-fiftieth of final average salary for each year of such member service. For member service rendered prior to April first, nineteen hundred sixty, during his service in excess of twenty-five years of total service, a pension which, together with the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, will provide a retirement allowance of one-sixtieth of final average salary for each year of such member service.

4. For each year of prior service, during his first twenty-five years

of total service, a pension computed on the basis of one-fiftieth of final average salary for each year of such service. For each year of prior service, during his service in excess of twenty-five years of total service, a pension computed on the basis of one-sixtieth of final average salary for each year of such service.

(c) If his total allowable service credit at the time of retirement is thirty years or more, his retirement allowance shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

2. For member service rendered on and after April first, nineteen hundred sixty, during his first thirty years of total service, a pension computed on the basis of one-fiftieth of final average salary for each year of such service. For member service rendered on and after April first, nineteen hundred sixty, during his service in excess of thirty years of total service, a pension computed on the basis of one-sixtieth of final average salary for each year of such member service.

3. For member service rendered prior to April first, nineteen hundred sixty, during his first thirty years of total service, a pension which, together with the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, will provide a retirement allowance of one-fiftieth of final average salary for each year of such member service. For member service rendered prior to April first, nineteen hundred sixty, during his service in excess of thirty years of total service, a pension which, together with the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, will provide a retirement allowance of one-sixtieth of final average salary for each year of such member service.

4. For each year of prior service, during his first thirty years of total service, a pension computed on the basis of one-fiftieth of final average salary for each year of such service. For each year of prior service during his service in excess of thirty years of total service, a

pension computed on the basis of one-sixtieth of final average salary for each year of such service.

e. (1) Any authority employee member who discontinues service other than by death or retirement, after the effective date specified in subdivision a of this section and prior to April first, nineteen hundred seventy, who has credit for at least ten years of total service, and who does not withdraw his accumulated contributions, except as provided in paragraph (6) of this subdivision, shall be entitled to make application for a vested retirement allowance on or after the first day of the month following his attainment of fifty-five years of age. The retirement allowance provided by this section shall vest automatically upon such discontinuance of service by such member.

(2) The vested retirement allowance provided by this subdivision shall be computed in the same manner as the service retirement allowance provided by subdivision d of this section. For purposes of this subdivision e, the total service referred to in subdivision d shall be the total service credit of the member at the time of his discontinuance of service. For purposes of this subdivision e, the final average salary referred to in subdivision d of this section shall be the final average salary at the time of such discontinuance. The annuity referred to in subdivision d of this section shall be the actuarial equivalent of the member's accumulated contributions at the time his retirement allowance commences.

(3) Any such member entitled to a vested retirement allowance shall apply for such allowance in accordance with the provisions of subdivision a of section seventy of this chapter.

(4) In the event of the death of such member prior to the effective date of his retirement, his accumulated contributions shall be paid to his beneficiary or estate in accordance with section fifty-one of this chapter.

(5) Any such member may withdraw his accumulated contributions at any time, subject to the limitations contained in section fifty-one of this chapter. The withdrawal of a member's accumulated contributions shall terminate his right to a vested retirement allowance.

(6) A member eligible for a vested retirement allowance under this section who discontinues service other than by death or retirement and

who had been contributing on a basis other than retirement at age sixty may, without adversely affecting his right to such vested retirement allowance, elect to withdraw the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution. Such refund shall be granted upon application to and with the approval of the comptroller.

f. The additional pensions provided under this section shall not be included in computing any pension reserve payable pursuant to the provisions of section sixty of this chapter, which shall be computed as though the member had not made the election provided in paragraph (1) of subdivision c of this section.

g. The increased pensions to authority employees provided by this section shall be paid from additional contributions made by the authority on account of each such member, in accordance with the provisions of section seventeen of this chapter. Such additional contributions shall be computed by the actuary on the basis of contributions during the prospective service of such members which will cover the liability of the retirement system for such extra pensions.

h. Nothing contained in this section shall impair the right of persons, who became members before August nineteenth, nineteen hundred sixty-six, to make contributions pursuant to subdivision i of section twenty-one of this chapter.

i. Any member who has elected to make contributions in accordance with the provisions of subdivision j of section twenty-one of this chapter shall continue to make such contributions until his election under said subdivision is withdrawn.

j. The provisions of this section shall be controlling, notwithstanding any provision in this chapter to the contrary.

k. The provisions of this section shall become effective on the

effective date specified in subdivision a of this section and shall remain in effect until March thirty-first, nineteen hundred seventy.

* NB Expired March 31, 1970

§ 89-d. Optional twenty year retirement plan for detective investigators, criminal investigators, senior criminal investigators, confidential criminal investigators, assistant criminal investigators and criminal investigators/arson in the office of a district attorney in counties which have elected to provide same. (a) Any member who is a detective investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator and criminal investigator/arson in the office of a district attorney who is engaged directly in criminal law enforcement activities, may elect to contribute to the retirement system on the basis of retirement after the completion of twenty years of total creditable service pursuant to this section within one year after the county wherein he is so engaged elects to make the benefits provided herein available. One year or more after the filing of an election, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

(b) On and after a county elects to make the benefits provided herein available, every detective investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator and criminal investigator/arson in the office of a district attorney, entering or re-entering service as such and within one year from the date of entry or re-entry, may elect to contribute to the retirement system pursuant to this section. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

(c) Elections shall be in writing and shall be duly executed and filed with the comptroller.

(e) A member who elects or is required to contribute in accordance with subdivision (a) of this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he

shall first become eligible for retirement under this section, an annuity equal to one-eightieth of his final average salary for each year of creditable service and as a member rendered after the county wherein he is engaged elected the provisions of this section and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as the county wherein he is engaged contributes pursuant to such section towards pensions-providing-for-increased-take-home-pay. Such member's contribution, reduced as aforesaid, shall also be appropriately further reduced by any multiple of twenty-five percentum of such contribution, reduced as aforesaid, which the county wherein he is engaged has elected to contribute on his behalf in lieu of such member's contributions pursuant to this subdivision. No such member shall be required to make contributions after completing twenty years of such service, except as is provided in subdivision (m) of this section.

(f) (1) A member then covered by the provisions of this section shall be entitled to retire after the completion of twenty years of total creditable service and shall retire upon attainment of age sixty-two by filing an application therefor with the comptroller.

(2) Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which is the actuarial equivalent of his accumulated contributions, if any, at the time of his retirement, and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

(3) Upon attainment of the mandatory retirement age of sixty-two years, and upon retirement without completion of twenty years of such service, each such member shall receive a pension which together with an annuity which is the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to

one-fortieth of his final average salary for each year of creditable service in a district attorney's office. Every such member shall also be entitled to an additional pension for other service as provided under paragraphs three and four of subdivision a of section seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of his final average salary.

(4) For the purpose only of determining the amount of the pension provided in subdivisions (f) and (m) of this section, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

(g) The entire additional cost for the increased pensions to members, as provided by this section, shall be paid from additional contributions made by the participating employer on account of such members. The actuary of the retirement system shall compute the additional contribution required for each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the participating employer for its district attorney's office. Such amount shall be paid to the pension accumulation fund of the retirement system.

(h) As used in this section "creditable service" shall include all criminal law enforcement services performed as a detective investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator or criminal investigator/arson in the office of a district attorney, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty percentum or more of such service.

(i) Credit for service as a member or officer of the state police, or

as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district or as a sheriff, undersheriff or regular deputy sheriff or as a criminal investigator in the office of a district attorney, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to this article or article eight of this chapter.

(j) The county wherein the member is engaged may, in its initial action taken under this section or subsequent thereto, elect to assume and pay all or part of the additional cost on account of service rendered to the county prior to the effective date of such election and, in addition, may in its initial action taken under this section or subsequent thereto, elect to assume and pay all or any multiple of twenty-five per centum of the additional cost on account of service rendered on and after the effective date of such election. The county shall pay the additional cost so assumed by any such election by means of annual contributions which shall be determined by the actuary.

(k) A member contributing on the basis of this section at the time of retirement, shall be retired on December thirty-first of the year in which he attains sixty-two years of age. Application therefor may be filed in a manner similar to that provided in section seventy of this article.

(l) The benefits of this section shall be available only to those members whose employer elects to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller.

(m) Upon completion of twenty years of total creditable service and upon retirement, each member covered by the plan provided by this section shall receive, for each year of creditable service in excess of twenty, but not more than ten such years, an additional retirement allowance equal to one-sixtieth of his final average salary for each such year of such service; provided, however, that this benefit shall be available only after the county employing such member elects specifically to provide this benefit. Member contributions, if any, shall be computed in a manner consistent with subdivision (e) of this

section so as to provide an annuity of one hundred twentieth of final average salary for each such year of service and employers shall have the further option to reduce contributions in a manner similar to that provided in said subdivision (e).

(n) Notwithstanding the provisions of article eleven of this chapter, a detective investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator and criminal investigator/arson in the office of district attorney that otherwise qualifies for retirement under this section may retire after the completion of twenty years total creditable service without regard to age with a retirement allowance equal to one-half of such persons final average salary.

(o) The provisions of this section shall, subject to the provisions of section seventy-six of this article, apply to members who, on and after June first, nineteen hundred eighty-three retire or separate in vested status from service with a participating employer who has elected to provide the benefits hereunder.

§ 89-e. Retirement of correction officers of the Westchester county correction department; alternative eligibility for retirement. a. Any member who is a correction officer of the Westchester county correction department shall be eligible to retire pursuant to the provisions of this section. In addition, any correction officer who is appointed to the title of deputy commissioner and who, while a correction officer and prior to such appointment to the title of deputy commissioner, elected to participate in the plan established pursuant to this section may elect, upon such appointment to the title of deputy commissioner, to continue to participate in the plan established pursuant to this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The chief executive officer of such county shall certify to the comptroller, in a manner and at such intervals as the comptroller may require, the identity of such eligible correction officers, including any eligible deputy commissioners.

b. Such member shall be entitled to retire upon the completion of

twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a correction officer of Westchester county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. A member contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which

he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Westchester.

h. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

j. As used in this section, "correction officer" of the Westchester county correction department means a correction officer, correction officer-sergeant, correction officer-captain, assistant warden, associate warden or warden.

k. Notwithstanding any provision of law to the contrary, where a correction officer would have been entitled to retire pursuant to this section at the time of his or her death and where his or her death occurs on or after the effective date of the chapter of the laws of two thousand twenty-three that added this subdivision, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 89-f. Retirement of county correction officers in Suffolk county. a.

Any member who is employed in Suffolk county as a correction officer shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the eligible correction officers in his employ.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. (1) Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of such member's accumulated contributions at the time of such member's retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which such member may then be entitled shall be sufficient to provide such member with a retirement allowance equal to one-half of such member's final average salary.

(2) Upon completion of thirty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of such member's accumulated contributions at the time of such member's retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which such member may then be entitled shall be sufficient to provide such member with a retirement allowance equal to sixty percent of such member's final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a correction officer of Suffolk county.

e. As used in this section, "correction officer" means a correction officer, warden, deputy warden or chief of staff.

f. Credit for service as a member or officer of the state police or as

a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

g. A member contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years or thirty years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years or thirty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of such member's accumulated contributions at the time of such member's retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which such member may then be entitled shall be sufficient to provide such member with a retirement allowance equal to one-half of such member's final average salary for a member retiring after the completion of twenty-five years, or a retirement allowance equal to sixty percent of such member's final average salary for a member retiring after the completion of thirty years.

h. In computing the twenty-five years or thirty years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of such member's entrance into the armed forces was in the service of the county of Suffolk.

i. Nothing herein shall be construed to prevent a member, who does not

retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-g. Retirement of county correction officers, uniformed correction division personnel, sheriffs, deputy sheriffs and undersheriffs in Nassau county. a. A member employed in Nassau county shall be eligible to retire pursuant to the provisions of this section if: (1) he is a sheriff or undersheriff, or a deputy sheriff who is engaged directly in criminal law enforcement activities; or (2) he is a correction officer or a uniformed correction division personnel. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include (1) in the case of a sheriff, undersheriff, correction officer or uniformed correction division personnel, any and all services performed as a sheriff, undersheriff and/or correction officer or uniformed correction division personnel of Nassau county and all criminal law enforcement

services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff and/or correction officer or uniformed correction division personnel of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law enforcement activities; and (2) the eligible correction officers and uniformed correction division personnel.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the

actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Nassau.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-h. Retirement of sheriffs, undersheriffs, deputy sheriffs, correction officers and identification officers in Albany county. a. A member employed in Albany county shall be eligible to retire pursuant to the provisions of this section if: (1) he or she is a sheriff or undersheriff, or a deputy sheriff who is engaged directly in criminal law enforcement activities; or (2) he or she is a correction officer or identification officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together

with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary.

d. As used in this section "creditable service" shall include (1) in the case of a sheriff, undersheriff, correction officer or identification officer any and all services performed as a sheriff, undersheriff, correction officer and/or identification officer of Albany county and all criminal law enforcement services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his or her service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff, correction officer and/or identification officer of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him or her and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law

enforcement activities; and (2) the eligible correction officers and identification officers.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his or her entrance into the armed forces was in the service of the county of Albany.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-i. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in St. Lawrence county. a. A member employed in St. Lawrence county shall be eligible to retire pursuant to the provisions of this section if: (1) he is a sheriff or undersheriff, or a deputy

sheriff who is engaged directly in criminal law enforcement activities; or (2) he is a correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include: (1) in the case of a sheriff, undersheriff or correction officer, any and all services performed as a sheriff, undersheriff and/or correction officer of St. Lawrence county and all criminal law enforcement services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff and/or correction officer of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years,

shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law enforcement activities; and (2) the eligible correction officers.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of St. Lawrence.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-j. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Jefferson county. a. A member employed in Jefferson county shall be eligible to retire pursuant to the provisions of this section if: (1) he is a sheriff or undersheriff, or a deputy sheriff who is engaged directly in criminal law enforcement activities; or (2) he is a correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include: (1) in the case of a sheriff, undersheriff or correction officer, any and all services performed as a sheriff, undersheriff and/or correction officer of Jefferson county and all criminal law enforcement services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff and/or correction officer of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law enforcement activities; and (2) the eligible correction officers.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the

county of Jefferson.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-k. Retirement of deputy sheriffs and correction officers in Onondaga county. a. A member employed in Onondaga county shall be eligible to retire pursuant to the provisions of this section if: (1) he is a deputy sheriff-jail division competitively appointed; or (2) he is a correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a deputy sheriff-jail division competitively appointed or as a correction officer of Onondaga county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff and the commissioner of correctional services of Onondaga county shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the eligible deputy sheriffs-jail division competitively appointed and the eligible correction officers, respectively.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the

county of Onondaga.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-1. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Orleans county. a. A member employed in Orleans county shall be eligible to retire pursuant to the provisions of this section if: (1) he is a sheriff or undersheriff, or a deputy sheriff who is engaged directly in criminal law enforcement activities; or (2) he is a correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include: (1) in the case of a sheriff, undersheriff or correction officer, any and all services performed as a sheriff, undersheriff and/or correction officer

of Orleans county and all criminal law enforcement services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff and/or correction officer of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law enforcement activities; and (2) the eligible correction officers.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which

he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Orleans.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-m. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Broome county. a. A member employed in Broome county shall be eligible to retire pursuant to the provisions of this section if: (1) he is a sheriff or undersheriff, or a deputy sheriff who is engaged directly in criminal law enforcement activities; or (2) he is a correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of this retirement and an

additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include (1) in the case of a sheriff, undersheriff or correction officer, any and all services performed as a sheriff, undersheriff and/or correction officer of Broome county and all criminal law enforcement services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff and/or correction officer of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law enforcement activities; and (2) the eligible correction officers.

g. A member, contributing on the basis of this section at the time of

retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Broome.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

*** § 89-n. Computation of twenty-five years of service; correction officers.** a. Notwithstanding any inconsistent provision of law, in computing twenty-five years of completed service by correction officers in all counties, full credit shall be given and full allowance shall be made for service of such member as a correction officer employed by the city of New York, as a uniformed employee in an institution under the jurisdiction of the department of corrections and community supervision, as a security hospital assistant under the jurisdiction of the office of mental health, or as a correction officer in any county in which he or

she was eligible to retire after twenty-five years of total creditable service.

b. Notwithstanding any inconsistent provision of law, in computing twenty-five years of completed service by state correction officers, full credit shall be given and full allowance shall be made for service of such members as a correction officer employed by the city of New York as a uniformed employee in an institution under the jurisdiction of the department of corrections and community supervision, as a security hospital assistant under the jurisdiction of the office of mental health, or as a correction officer in any county in which he or she was eligible to retire after twenty-five years of total creditable service.

* NB There are 2 § 89-n's

*** § 89-n. Retirement of deputy sheriffs-jailors in Monroe county.** a. A member employed in Monroe county shall be eligible to retire pursuant to the provisions of this section if he is a deputy sheriff-court security, or deputy sheriff-jailor or holds a job with responsibilities similar to those of a deputy sheriff-jailor, in the event that the job title of deputy sheriff-jailor shall be abolished. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a deputy sheriff-court security, or deputy sheriff-jailor of Monroe county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the deputy sheriffs-court security, and deputy sheriffs-jailors in the sheriff's employ.

g. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War

I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Monroe.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

* NB There are 2 § 89-n's

§ 89-o. Retirement of sheriffs, undersheriffs, deputy sheriffs and correction officers in Greene county. a. A member employed in Greene county shall be eligible to retire pursuant to the provisions of this section if: (1) he is a sheriff or undersheriff, or a deputy sheriff who is engaged directly in criminal law enforcement activities; or (2) he is a correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include (1) in the case of a sheriff, undersheriff or correction officer, any and all services performed as a sheriff, undersheriff and/or correction officer of Greene county and all criminal law enforcement services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff and/or correction officer of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law enforcement activities; and (2) the eligible correction officers.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity

which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Greene.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-p. Optional twenty-five year retirement plan for certain sheriffs, undersheriffs, deputy sheriffs and correction officers whose employer elects to provide same. a. A member employed by a county shall be eligible to retire pursuant to the provisions of this section if the county elects to make the benefits provided herein available as provided in subdivision j of this section and if he or she is (1) a sheriff or undersheriff, or a deputy sheriff who is engaged directly in criminal law enforcement activities; or (2) a correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The comptroller shall have the authority to include positions herein that comprehend the same duties and responsibilities, but are named differently.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include (1) in the case of a sheriff, undersheriff and/or correction officer, any and all services performed as a sheriff, undersheriff and/or correction officer of his or her employer that makes the election provided for herein and all criminal law enforcement services performed as a deputy sheriff of such county, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his service as a deputy sheriff and (2) in the case of a deputy sheriff, all criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of such service and any and all services performed as a sheriff, undersheriff and/or correction officer of such county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this

article or article eight of this chapter.

f. The sheriff (or the chief executive officer where correction officers are not employed in a sheriff's department) of a county that makes the election provided for in subdivision j of this section shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of: (1) the deputy sheriffs in the sheriff's employ who are engaged directly in criminal law enforcement activities; and (2) the eligible correction officers.

g. A member contributing on the basis of this section at the time of retirement shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of his or her employer that makes the election provided for herein.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. (1) Each county that elects pursuant to the provisions of this subdivision shall pay the cost attributable therefor.

(2) The benefits of this section shall be available only to those members defined in subdivisions a and d of this section whose employer elects on or before June thirtieth, nineteen hundred ninety-nine to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller. Such resolution may also contain an election that any past service cost be paid over either a five-year or ten-year period. Such resolution shall be accompanied by the affidavit of the chief executive officer of the county that the county has received an estimate from the retirement system of the cost of the benefit provided by this section.

(3) Such resolution shall apply to all members defined in subdivisions a and d of this section, except those already subject to a retirement plan which permits immediate retirement with a benefit upon a specified period of service of twenty-five years or less without regard to age.

k. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-q. Retirement of traffic officers with the town of Elmira. a. A member employed as a traffic officer with the town of Elmira traffic district number one shall be eligible to retire pursuant to the provisions of this section if he is a traffic officer or holds a job with responsibilities similar to those of a traffic officer, in the event that the job title of traffic officer shall be abolished. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together

with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a traffic officer with the town of Elmira traffic district number one.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The town of Elmira shall certify to the comptroller, periodically and at such intervals of time as may be required and in such fashion as may be prescribed, the identity of the traffic officers in its employ.

g. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the town of Elmira.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

§ 89-r. Retirement of county park police officers in Suffolk county.

a. Any member who is employed by Suffolk county as a park police officer shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The parks commissioner of the Suffolk county department of parks shall certify to the comptroller, periodically and at such intervals of time as may be required of him or her and in such fashion as may be prescribed, the identity of the eligible park police officers in his or her employ.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the

reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a park police officer of the Suffolk county department of parks, and any and all services performed as a park ranger of the Suffolk county department of parks.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. A member contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance

shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his or her entrance into the armed forces was in the service of the county of Suffolk.

h. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

*** § 89-s. Retirement of members who serve as peace officers in the Suffolk county probation department.** a. Any member who serves as a peace officer and is employed in the Suffolk county probation department shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The chief executive officer of the Suffolk county probation department shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the eligible peace officers in his employ.

b. A member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled

shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a peace officer, a correction officer as defined in section eighty-nine-f of this chapter, a probation officer trainee in the Suffolk county probation department.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section.

f. A member contributing on the basis of this section at the time of retirement may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Suffolk.

h. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing

service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

* NB There are 3 § 89-s's

*** § 89-s. Retirement of members who serve as ambulance medical technicians, ambulance medical technician/supervisors, members who perform ambulance** medical technician related services, police medics, police medic supervisors and members who perform police medic related services in the Nassau county police department. a. Any member who serves as an ambulance medical technician, ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services and is employed in the Nassau county police department shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and

all services performed as an ambulance medical technician, ambulance medical technician/supervisor or member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services in the Nassau county police department.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section.

f. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary; for service beyond twenty-five years the benefit is increased by one-sixtieth of final average salary for each year of additional service credit provided, however, that the total allowance payable pursuant to this section shall not exceed three-fourths of such member's final average salary.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Nassau.

h. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

* NB There are 3 § 89-s's

*** § 89-s. Retirement of members who serve as peace officers in the Nassau county probation department.** a. Any member who serves as a peace officer and is employed in the Nassau county probation department shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The chief executive officer of the Nassau county probation department shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the eligible peace officers in his employ.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a peace officer, a probation officer trainee or a probation assistant in the Nassau county probation department.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section.

f. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary; for service beyond twenty-five years and for non-probation county service the benefit is increased by one-sixtieth of final average salary for each year of additional service credit.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Nassau.

h. Nothing in this section shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions

of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

j. Notwithstanding any provision of this section or of any other provision of law to the contrary, peace officers must serve five years within the Nassau county probation department after the effective date of this section before they are eligible to retire under the provisions of the twenty-five year retirement plan.

* NB There are 3 § 89-s's

§ 89-ss. Retirement of members employed as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles in a participating Suffolk county fire district. a. Any member employed on or after December eighth, two thousand twenty-three as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles upon an election by a participating Suffolk county fire district shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement

allowance equal to one-half of his or her final average salary.

d. As used in this section "creditable service" shall include any and all services performed as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles employed by a participating Suffolk county fire district.

e. Credit for service as a paid firefighter or officer of any organized fire department shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section.

f. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary; for service beyond twenty-five years the benefit is increased by one-sixtieth of final average salary for each year of additional service credit provided, however, that the total allowance payable pursuant to this section shall not exceed three-fourths of such member's final average salary.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his or her entrance into the armed forces was employed by a participating Suffolk county fire district.

h. Nothing in this section shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision of this article to the contrary.

j. (1) Each Suffolk county fire district that elects pursuant to the provisions of this subdivision shall pay the cost attributable therefor.

(2) The benefits of this section shall be available only to those members defined in subdivisions a and d of this section whose employer elects to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller. Such resolution shall be accompanied by the affidavit of the chief executive officer of the fire district that the fire district has received an estimate from the retirement system of the cost of the benefit provided by this section.

(3) Such resolution shall apply to all members defined in subdivisions a and d of this section.

*** § 89-t. Optional twenty-five year retirement plan for county probation officers.** a. A member employed by a county shall be eligible to retire pursuant to the provisions of this section if the county elects to make the benefits provided herein available as provided in subdivision j of this section and if he or she is a peace officer employed by a county probation department. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The comptroller shall have the authority to include positions herein that comprehend the same duties and responsibilities, but are named differently.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application

therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his or her final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a peace officer within a county probation department.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, or as a probation assistant in a county probation department, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section.

f. The chief executive officer in each county shall certify to the comptroller, periodically and at such intervals of time as may be required and in such fashion as may be prescribed, the identity of the eligible probation officers.

g. A member contributing on the basis of this section at the time of retirement shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the

actuarial equivalent of the reserved-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of his or her employer that makes the election provided for herein.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. (1) Each county that elects pursuant to the provisions of this subdivision shall pay the cost attributable therefor.

(2) The benefits of this section shall be available only to those members defined in subdivisions a and d of this section whose employer elects to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller. Such resolution may also contain an election that any past service cost be paid over either a five-year or ten-year period. Such resolution shall be accompanied by the affidavit of the chief executive officer of the county that the county has received an estimate from the retirement system of the cost of the benefit provided by this section.

(3) Such resolution shall apply to all members defined in subdivisions a and d of this section, except those already subject to a retirement plan which permits immediate retirement with a benefit upon a specified period of service of twenty-five years or less without regard to age.

k. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

* NB There are 2 § 89-t's

*** § 89-t. Alternative retirement benefits for safety officers.** a. Definitions. For purposes of this section:

1. "Qualifying member" shall mean any member who is in service as a safety officer under the jurisdiction of the office of mental health or the office for people with developmental disabilities, an institutional safety officer, or a special police officer designated by the director of a state hospital.

2. "Qualifying creditable service" shall mean creditable service rendered while a member is a qualifying member.

b. Eligibility. 1. Any qualifying member, as defined in subdivision a of this section, shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The comptroller may request certifications from agency officials, as appropriate, to identify such eligible members.

2. Any such qualifying member shall be entitled to retire after the completion of twenty-five years of qualifying creditable service by filing an application therefor in a manner similar to that provided in section seventy of this article; provided, however, no such member shall be eligible to retire until he or she has a minimum of ten years of qualifying creditable service.

c. Retirement allowance. A member retiring under the provisions of this section shall receive a retirement allowance consisting of a pension equal to one-fiftieth of his or her final average salary for each year of qualifying creditable service. This retirement allowance shall not exceed fifty percent of such member's final average salary.

d. Computation of service. In computing the twenty-five years of completed service of a qualifying member for purposes of this section,

full credit shall be given and full allowance shall be made for service of such member in war after World War I, as defined in subdivision thirty of section two of this chapter, provided such member at the time of his or her entrance into the armed forces was in state service.

e. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for the service credit pursuant to any other plan of this article to which such member is subject.

f. The increased costs of the benefits provided for in this section shall be paid from additional contributions made by the employer.

g. The provisions in this section shall be controlling notwithstanding any other provision in this article to the contrary.

* NB There are 2 § 89-t's

§ 89-u. Retirement of county sheriffs, undersheriffs, deputy sheriffs, state and county correction officers; portability of service credit between the state and county special twenty-five year retirement plans. For the purpose of any of the twenty-five year retirement plans for state and county correction officers, sheriffs, deputy sheriffs, and/or undersheriffs provided pursuant to this chapter, service which has been credited under such a plan for the state and any county shall be creditable under any other such twenty-five year plan provided by the state and any other county.

*** § 89-v. Retirement of deputy sheriffs-civil in Rockland county.** a. A member employed in Rockland county shall be eligible to retire pursuant to the provisions of section eighty-nine-p of this article if the county of Rockland elects to make the benefits provided in section eighty-nine-p of this article available to the sheriff, undersheriffs, deputy sheriffs and correction officers of such county and if he or she is a deputy sheriff-civil of such county. Such eligibility shall be an

alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. The term "creditable service" shall include any and all services performed as a deputy sheriff-civil of Rockland county and other creditable service as defined in subdivisions d and e of section eighty-nine-p of this article.

c. Rockland county is authorized to adopt a resolution on or before December thirty-first, two thousand one to extend the provisions of this section to those members defined in subdivision a of this section. A certified copy of such resolution must be filed with the comptroller and may contain an election that any past service cost be paid over either a five-year or ten-year period. Such resolution shall be accompanied by the affidavit of the chief executive officer of Rockland county that the county has received an estimate from the retirement system of the cost of the benefit provided by this section.

d. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him or her and in such fashion as may be prescribed, the identity of the deputy sheriffs-civil of Rockland county.

e. Unless otherwise indicated in this section, the provisions of section eighty-nine-p of this article shall be controlling.

* NB There are 3 § 89-v's

*** § 89-v. Retirement of paramedics employed by the police department in the town of Tonawanda.** a. A member employed by the town of Tonawanda as a paramedic, or, if the title of paramedic is abolished, an individual employed by the police department in the town of Tonawanda in a position with responsibilities that are essentially identical to those of a paramedic, shall be eligible to retire pursuant to the provisions of this section, if such member files a timely election with the comptroller, on a form provided by the comptroller for such purpose, to be covered by this section. To be effective, such form must be filed

within one year after this section shall become law, or within one year following the individual's commencement of eligible employment with the police department in the town of Tonawanda, whichever is later. The benefits hereinabove provided shall be payable to a member, unless at the date of retirement, such member would otherwise be entitled to a greater benefit under other provisions of this article had he withdrawn from this section, in which event such greater benefits shall be payable.

b. Such members shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such services and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a paramedic with the police department in the town of Tonawanda.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section provided such services are performed by the member while contributing to the New York state and local police and fire retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The town of Tonawanda shall certify to the comptroller,

periodically and at such intervals of time as may be required and in such fashion as may be prescribed, the identity of the paramedics in the police department's employ.

g. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary. Upon retirement, each such member shall receive, for each year of service in excess of twenty-five, an additional pension which shall be equal to one-sixtieth of his or her final average salary; provided, however, that the total allowance payable pursuant to this section shall not exceed three-quarters of such member's final average salary.

h. In computing the service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his or her entrance into the armed forces was in the service of the town of Tonawanda.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. Impairments of health; presumption. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any paramedic employed by the police department in the town of Tonawanda

who is covered by the provisions of this section or subdivision s of section six hundred four of this chapter and who contracts HIV, tuberculosis or hepatitis after contact with members of the public (where there may have been an exposure to a bodily fluid) will be presumed to have contracted such disease in the performance or discharge of his or her duties as the natural and proximate result of an accident sustained in the performance of duties unless the contrary be proven by competent evidence.

k. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to any paramedic employed by the police department in the town of Tonawanda who is covered by the provisions of this section or subdivision s of section six hundred four of this chapter and who, prior to entry into such service successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural proximate result of an accident, unless the contrary be proved by competent evidence.

l. A paramedic employed by the police department in the town of Tonawanda who is covered by the provisions of this section or subdivision s of section six hundred four of this chapter and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provision of subdivision b of section four hundred forty-five of this chapter, shall upon completion of ninety days of service be covered for financial protection in the event of death in service pursuant to this subdivision. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law.

m. The provisions of this section shall be controlling notwithstanding any other provisions in this chapter to the contrary.

* NB There are 3 § 89-v's

*** § 89-v. Retirement of superior correction officers in Rockland county.** a. A member employed in Rockland county shall be eligible to retire pursuant to the provisions of this section if he is a superior correction officer. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a correction officer of Rockland county.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

f. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him and in such fashion as may be prescribed, the identity of the eligible correction officers.

g. A member, contributing on the basis of this section at the time of retirement, shall retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

h. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county of Rockland.

i. Nothing herein shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

j. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

* NB There are 3 § 89-v's

§ 89-w. Optional twenty-five year retirement plan for county fire marshals in the county of Nassau. a. A member who serves as a county

fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal or division supervising fire marshal and is employed by the county of Nassau shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject. The county executive of the county of Nassau shall certify to the comptroller, periodically and at such intervals of time as may be required of him or her and in such fashion as may be prescribed, the identity of the eligible county fire marshal, supervising fire marshals, fire marshals, assistant fire marshals, assistant chief fire marshals, chief fire marshals and division supervising fire marshals in his or her employ.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary.

d. As used in this section "creditable service" shall include any and all services performed as a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal or chief fire marshal employed by the county of Nassau.

e. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney shall also be deemed to be creditable

service and shall be included in computing years of total service for retirement pursuant to this section.

f. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary; for service beyond twenty-five years and for non-fire marshal county service the benefit is increased by one-sixtieth of final average salary for each year of additional service credit.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in the service of the county.

h. Nothing in this section shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

j. Notwithstanding any provision of this section or of any other provision of law to the contrary, county fire marshals, supervising fire

marshals, fire marshals, assistant fire marshals, assistant chief fire marshals, chief fire marshals and division supervising fire marshals must serve five years within the Nassau county fire marshal department after the effective date of this section before they are eligible to retire under the provisions of the twenty-five year retirement plan.

§ 89-x. Retirement of deputy sheriffs-civil in Monroe county. a. A member employed in Monroe county shall be eligible to retire pursuant to the provisions of section eighty-nine-p of this title if the county of Monroe elects to make the benefits provided in section eighty-nine-p of this title available to the sheriff, undersheriffs, deputy sheriffs and correction officers of such county and if he or she is a deputy sheriff-civil of such county. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. The term "creditable service" shall include any and all services performed as a deputy sheriff-civil of Monroe county and other creditable service as defined in subdivisions d and e of section eighty-nine-p of this title.

c. Monroe county is authorized to adopt a resolution on or before December thirty-first, two thousand twenty-four to extend the provisions of this section to those members defined in subdivision a of this section. A certified copy of such resolution must be filed with the comptroller and may contain an election that any past service cost be paid over either a five-year or ten-year period. Such resolution shall be accompanied by the affidavit of the chief executive officer of Monroe county that the county has received an estimate from the retirement system of the cost of the benefit provided by this section.

d. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him or her and in such fashion as may be prescribed, the identity of the deputy sheriffs-civil of Monroe county.

e. Unless otherwise indicated in this section, the provisions of section eighty-nine-p of this title shall be controlling.

§ 89-y. Twenty-five year retirement plan for firefighters employed by the division of military and naval affairs. a. A member who serves as an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer and is employed by the division of military and naval affairs shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

b. Such member shall be entitled to retire upon the completion of twenty-five years of total creditable service by filing an application therefor in the manner provided for in section seventy of this article.

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of their accumulated contributions at the time of their retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which they may then be entitled shall be sufficient to provide them with a retirement allowance equal to one-half of their final average salary.

d. As used in this section, "creditable service" shall include any and all services performed as a firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer employed by the division of military and naval affairs.

e. Credit for service as a paid firefighter or officer of any organized fire department shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section.

f. A member contributing on the basis of this section at the time of retirement, may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of their accumulated contributions at the time of their retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which they may then be entitled shall be sufficient to provide them with a retirement allowance equal to one-half of their final average salary; for service beyond twenty-five years and for non-firefighter service the benefit is increased by one-sixtieth of final average salary for each year of additional service credit.

g. In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after World War I as defined in section two of this article, provided such member at the time of their entrance into the armed forces was in the service of the state.

h. Nothing in this section shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

i. The provisions of this section shall be controlling notwithstanding any other provision in this article to the contrary.

j. Any member who, on or before the effective date of this section, is a firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer employed by the division of military and naval affairs may, by filing an election within one year after the effective date of this section, elect to be subject

to the provisions of this section. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable.

TITLE 10

OPTIONS

Section 90. Options.

§ 90. Options. a. A member; or if he is an incompetent, his spouse or the committee of his property; or if he is a conservatee, his spouse or the conservator of his property, may elect to receive a Single Life Allowance (a retirement allowance without optional modification) or to receive the actuarial equivalent of his retirement allowance at the time of his retirement, in the form of a smaller retirement allowance payable to him for life and one of the following optional settlements:

Cash Refund-Contributions (Option One-half). If he dies before he has received annuity payments equal to the present value of his annuity, as it was at the time of his retirement, the balance thereof shall be paid to his estate or to a beneficiary designated as provided in this section. In the event a designated beneficiary does not survive him, any balance shall be payable to the estate of the deceased retired member or as provided in section one thousand three hundred ten of the surrogate's court procedure act. The beneficiary so designated may elect by written designation, duly executed and filed with the comptroller, to receive the balance payable in the form of an annuity, the amount of which shall be determined as the actuarial equivalent of such balance on the basis of regular interest and the age of such beneficiary at the time of the retiree's death, or in the alternative to receive the actuarial equivalent of such balance in the form of a reduced annuity payable for life, with the further proviso that if he should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to his estate or to such person as he shall have designated to receive same. In either case the election shall be made within ninety days after the death of the

retiree. The designation of the individual who is to receive such lump sum on the death of the beneficiary, may be changed by the beneficiary at any time. Such election, designation or change shall be made by a writing, duly executed and filed with the comptroller. In the event a designated beneficiary has elected to receive a balance payable in the form of a reduced annuity, and the person designated by him to receive a lump sum payment does not survive him, such lump sum, if any, shall be payable to the estate of the designated beneficiary or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

Cash Refund-Initial Value (Option One). If he dies before he has received retirement allowance payments equal to the present value of his retirement allowance, as it was at the time of his retirement, the balance thereof shall be paid to his estate or to the beneficiary so designated. In the event a designated beneficiary does not survive him, any balance shall be payable to the estate of the deceased retired member or as provided in section one thousand three hundred ten of the surrogate's court procedure act. The beneficiary so designated may elect by written designation, duly executed and filed with the comptroller, to receive the balance payable in the form of an annuity, the amount of which shall be determined as the actuarial equivalent of such balance on the basis of regular interest and the age of such beneficiary at the time of the retiree's death, or in the alternative, to receive the actuarial equivalent of such balance in the form of a reduced annuity payable for life, with the further proviso that if he should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to his estate or to such person as he shall have designated to receive same. In either case the election shall be made within ninety days after the death of the retiree. The designation of the individual who is to receive such lump sum on the death of the beneficiary, may be changed by the beneficiary at any time. Such election, designation or change shall be made by a writing, duly executed and filed with the comptroller. In the event a designated beneficiary has elected to receive a balance payable in the form of a reduced annuity, and the person designated by him to receive a lump sum payment does not survive him, such lump sum,

if any, shall be payable to the estate of the designated beneficiary or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

Joint Allowance-Full (Option Two). Upon his death, a retirement allowance in an amount equal to that paid to him, shall be paid for life to the beneficiary so designated.

Joint Allowance-Half (Option Three). Upon his death, a retirement allowance of one-half the amount paid to him shall be paid for life to the beneficiary so designated.

Actuarial Equivalent Allowance (Option Four). Such other optional benefit or benefits as the comptroller shall approve and which shall be the actuarial equivalent of his retirement allowance at the time of his retirement.

aa. In the event that the monthly retirement allowance payable to a member or a beneficiary shall amount to less than twenty-five dollars, then and in such event, the member or beneficiary may elect, in lieu of such monthly retirement allowance, to receive the actuarial equivalent thereof in a lump sum.

b. All elections under this section shall be made on blanks prepared by the comptroller for that purpose. Any such election may be made at any time before the first payment on account of any benefit becomes normally due, except that in the case of retirement on account of disability, such an election may be made within thirty days after mailing by the comptroller of notification of approval of retirement on account of disability.

An optional election shall not become effective if the member dies before the effective date of his retirement. Provided, however, if a member who is otherwise eligible for disability retirement pursuant to this chapter dies after the filing in the office of the comptroller of the application for disability retirement and a valid option election form pursuant to this chapter and it is established that the physical or

mental impairment or incapacitation of the applicant specified in such application was directly related to the cause of the applicant's death, such application shall be approved by the comptroller effective one day before the date of the applicant's death. An election of an option may be withdrawn or a new option may be chosen within the period provided in this subdivision b for the making of such an election. Except as provided in subdivision b of section seventy of this article, where an optional election does not become effective, retirement shall be without option.

bb. 1. Notwithstanding any other provision of this section or of section seventy of this article, the comptroller, for reasonable cause, shall have power to extend the time for the election of an option, for a period or periods which shall expire not later than sixty days immediately after the effective date of a member's retirement.

2. Notwithstanding any other provision of this section, but except where payment of accumulated contributions, an ordinary death benefit, or both, is or are required pursuant to subdivision dd of section fifty-one of this article or subdivision aa of section sixty of this article, retirement shall be on the basis of "Option One-half" unless the member files an effective election pursuant to this section to retire on a different basis. The provisions of this paragraph two shall apply to cases where retirement shall become effective on or after May first, nineteen hundred fifty-four.

c. A member, or person authorized by this section to make an election in his behalf, may designate his beneficiary under any of the options herein provided. Each such designation shall be:

1. Made in writing on a blank provided by the comptroller for such purpose, and

2. Ineffective until it is filed in the comptroller's office, and

3. Revocable to the extent that:

(a) A new beneficiary under a "Cash Refund-Contributions" option

(Option One-half), or "a Cash Refund-Initial Value" option (Option One) may be designated at any time during the member's life.

(b) A new beneficiary under any other option may be designated at any time within the period provided for the making of an election pursuant to this section.

d. In the event of the death of a retired member, the installment of his retirement allowance, which would have become due and payable next following his death, shall be pro-rated as of the date of his death. The amount of such installment, as so pro-rated, shall be paid as follows:

1. If the member shall have:

(a) Elected to receive an optional benefit pursuant to this section, and

(b) Designated a beneficiary pursuant to this section, such amount shall be paid to such beneficiary, if such beneficiary survives him. In any other case such amount shall be paid to the retired member's estate or pursuant to section one thousand three hundred ten of the surrogate's court procedure act.

2. If the member shall not have elected to receive an optional benefit, such amount shall be paid to the beneficiary designated by him pursuant to subdivision d of section fifty-one of this article. In the event the appropriately designated beneficiary does not survive such member, or if he shall not have so designated a beneficiary, such amount shall be payable to the retired member's estate or pursuant to section one thousand three hundred ten of the surrogate's court procedure act.

e. Notwithstanding any other provision of this article, an option selection previously filed by a member or retired member subject to the provisions of this section may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever is later.

TITLE 11

PROVISIONS RELATING TO RETIRED MEMBERS

Section 100. Payment of retirement allowances.

101. Reduction or suspension of benefits.

102. Recovery of disability beneficiaries.

§ 100. Payment of retirement allowances. Retirement allowances shall be payable on the first day of each and every month beginning on the first day of the month following the effective date of retirement. Upon the death of a retired member, however, the retirement allowance due for that part of the month prior to his death shall be paid forthwith.

§ 101. Reduction or suspension of benefits. a. If a retired member, receiving a retirement allowance for other than physical disability, returns to active public service, except as otherwise provided in this section or section two hundred eleven or two hundred twelve of this chapter, and is eligible for membership in the retirement system, he thereupon shall become a member and his retirement allowance shall cease. In such event, he shall contribute to the retirement system as if he were a new member. Upon his subsequent retirement he shall:

1. Be credited with all member service earned by him since he last became a member of the retirement system, and

2. Receive a retirement allowance which shall consist of:

(a) An annuity which is the actuarial equivalent of all his accumulated contributions, and

(b) The pension including the pension-providing-for-increased-take-home-pay which he was receiving immediately prior to his last restoration to membership, plus a pension including the pension-providing-for-increased-take-home-pay based upon the member service credit earned by him since he last became a member. Such latter pensions shall be computed as if he were a new member when

he last became a member.

Where such member shall have earned at least two years of member service credit after restoration to active service, the total service credit to which he was entitled at the time of his earlier retirement may, at his option, again be credited to him and upon his subsequent retirement he shall be credited in addition with all member service earned by him subsequent to his last restoration to membership. Such total service credit to which he was entitled at the time of his earlier retirement shall be so credited only in the event that such member returns to the retirement system with regular interest the actuarial equivalent of the amount of the retirement allowance he received, or in the event that such amount is not so repaid the actuarial equivalent thereof shall be deducted from his subsequent retirement allowance.

Notwithstanding the foregoing provisions of this subdivision, a retired member who is receiving a retirement allowance for other than physical disability, and who returns to active public service, may elect not to be restored to membership in the retirement system until he has rendered one year of service following his return to public service. In such event his retirement allowance shall be suspended during such year of service as provided in subdivision b of this section. Upon restoration to membership following completion of such year of service, his service in such year shall be deemed to be service while a member for purposes of subdivision b of section sixty of this chapter. He may purchase member service credit for such year, which shall be deemed earned member service credit. This paragraph shall not be construed to authorize the return to public service of any person who is otherwise not eligible therefor on account of having reached age seventy.

If a retired member receiving a retirement allowance for other than physical disability, returns to active public service, and is then ineligible for membership in the retirement system, his retirement allowance shall be suspended in the same manner as provided in subdivision b of this section.

b. Temporary service.

1. The payment of any retirement allowance, or of any benefit in lieu thereof, on account of retirement for other than physical disability shall be suspended as provided herein, during the time that the beneficiary thereof is in receipt of other compensation paid from direct or indirect state or municipal taxes:

(a) For temporary government or temporary public service other than jury duty, or

(b) For service pursuant to subdivision d of this section where the retired member continues as a beneficiary of the retirement system, or

(c) For service pursuant to subdivision e of this section where the retired member has not elected to again become a member of the retirement system.

2. In the case of a retirement allowance, without option, the amount of the pension portion, including the pension-providing-for-increased-take-home-pay, suspended for any period shall be equal to the amount of such other compensation for the same period.

3. In the case where an optional benefit in lieu of a retirement allowance without option shall have been selected, the pension portion thereof, including the pension-providing-for-increased-take-home-pay, shall be suspended in such manner as the comptroller shall approve. The amount so suspended shall be equal to the actuarial equivalent of the amount by which the pension portion of the retirement allowance, including the pension-providing-for-increased-take-home-pay, as it would be without option, would be suspended pursuant to paragraph two of this subdivision b. The retired member, however, may pay to the fund or funds from which the pension portion of his retirement allowance, including the pension-providing-for-increased-take-home-pay, is payable the difference between the suspended portion thereof, without option, and the suspended portion of the optional pension portion of the retirement allowance, including the pension-providing-for-increased-take-home-pay, granted to him. In such event any payments to his beneficiary shall be made as if no suspension occurred.

4. In the case of a member whose compensation for public service is equal to or greater than his final salary as defined herein, the annuity portion of his retirement allowance shall be suspended during the period that he is receiving such compensation. In the case of a member whose compensation for public service is less than his final salary as defined herein and who has retired without option, he shall be entitled to receive that portion of his annuity computed without option which, when added to his compensation for public service, does not exceed the aforesaid final salary, except that in the case of a retired judge or justice who serves as an official referee he shall receive that portion of his annuity computed without option, which when added to the compensation he is receiving from the state shall not exceed such final salary paid by the state. Where an optional benefit has been selected in lieu of a retirement allowance without option, the amount of the annuity suspended shall be the actuarial equivalent of the amount that would have been suspended if the retirement allowance had been without option. In such a case the retired member may pay to the fund or funds, from which the annuity portion of his retirement allowance is payable, the difference between that portion of the annuity which is actually suspended, in accordance with the provisions of this paragraph, and the corresponding portion of the annuity without option. In such event any payments to his beneficiary shall be made as if no suspension occurred. The term "final salary", as used in this paragraph, shall mean the maximum salary or compensation which the retired member currently would be receiving in the position from which he last retired, if he had not so retired, except in the case of an official referee shall mean his final average salary had he retired at age seventy. If the position from which he was so retired has been abolished the comptroller, upon the basis of salary or compensation currently paid in similar or comparable positions, shall determine the maximum amount of salary or compensation which the retired member currently would be receiving in the abolished position.

c. Retired judges or justices certified for service as justices of the supreme court.

1. In the event that a judge or justice shall:

(a) Have retired and is receiving a retirement allowance from this retirement system, or another retirement system of which he was a member, and

(b) Be certified for service as a justice of the supreme court pursuant to section one hundred fourteen or one hundred fifteen of the judiciary law, his retirement allowance shall cease. He thereupon again shall become a member of the retirement system of which he formerly was a member. In such event he shall contribute, as if he were a new member, to the annuity savings fund of this retirement system or to the equivalent fund of such other retirement system.

2. Upon his subsequent retirement he shall:

(a) Be credited by the appropriate retirement system with all member service earned by him since he last became a member thereof, and

(b) Receive a retirement allowance from such system which shall consist of:

(1) An annuity which is the actuarial equivalent of all of the member's accumulated contributions, and

(2) The pension, including the pension-providing-for-increased-take-home-pay, which he was receiving immediately prior to his last restoration to membership, plus a pension, including the pension-providing-for-increased-take-home-pay, based upon the member service credit earned by him since he last became a member. Such latter pensions shall be computed as if he were a new member when he last became a member.

3. The provisions of this subdivision c shall be controlling notwithstanding any other provision of this chapter.

d. Election or appointment of retired members to certain public offices.

1. A retired member, unless otherwise disqualified, shall be eligible to:

(a) Election to a state office, or

(b) Appointment to fill a vacancy in an elective state office, or

(c) Appointment as an official referee.

2. In the event a retired member is so elected, except a retired member so elected and who is receiving less than ten thousand dollars in retirement allowance or benefit payments in any one year, or appointed, or so qualifies, he may:

(a) Upon written notice to the comptroller, receive from the retirement system the then present value of the annuity earned by his accumulated contributions, and upon receipt thereof cease to be a beneficiary of the retirement system, or

(b) Continue as a beneficiary of the retirement system, but with payments of any retirement allowance or any benefit in lieu thereof, on account of retirement for other than physical disability, suspended during the time he is in receipt of compensation for state or public service. Such suspension shall be governed by the provisions of paragraphs two, three and four of subdivision b of this section.

3. The provisions of section one hundred fifty of the civil service law shall govern with respect to state and local elective public officers.

e. Legislative officers and employees.

In the case of any person who shall have retired after having served as an officer or employee of the legislature for a period in excess of fifteen years and whose return to active service shall be requested, in a written certificate of and filed with the comptroller by:

1. The president pro tem of the senate, if the service be in the senate, or

2. The speaker of the assembly, if the service be in the assembly, or

3. Both such officers, if the service be under the jurisdiction of the senate and assembly jointly, except that the president of the senate and the speaker of the assembly shall be authorized to make such request in a case where they are empowered to make such an appointment, the provisions of subdivision a of this section shall not be applicable

unless the officer or employee so returned to active service shall file with the comptroller, within thirty days thereafter, a written notice that he elects to be subject to the provisions thereof. In the event he does not so elect, the provisions of subdivision b of this section shall be applicable to him.

§ 102. Recovery of disability beneficiaries. a. Once each year following the retirement of a member on a disability allowance, the comptroller may, and, upon the beneficiary's application, shall require such disability beneficiary to undergo a medical examination. Such examination shall be made at the place of residence of such beneficiary, or at any other place mutually agreed upon by the comptroller and such beneficiary. In the event that any such disability beneficiary shall refuse to submit to a medical examination, the pension portion of his retirement allowance, including the pension-providing-for-increased-take-home-pay, shall be discontinued until his withdrawal of such refusal. If such refusal shall continue for one year, all his rights in and to his pension shall be forfeited.

b. The pension, including the pension-providing-for-increased-take-home-pay, of a disability beneficiary shall be reduced in the event that any such disability beneficiary is engaged in a gainful occupation paying more than the difference between his retirement allowance, as it would be without optional modification and if not reduced by the actuarial equivalent of any outstanding loan and if not increased by the actuarial equivalent of any additional contributions, and his final salary. Such reduction shall be to a sum which, when added to an annuity, as so computed, plus the amount so earnable by him, shall equal his final salary. If his earning capacity thereafter changes, his pension may be further altered. Any such altered pension shall not exceed:

1. The pension, including the pension-providing-for-increased-take-home-pay, originally granted to such beneficiary, nor

2. An amount which, when added to an annuity, as so computed, plus the

sum earned by him, shall equal his final salary.

In the case where an optional benefit has been selected, such reduction shall be the same as the reduction would have been without optional modification. Where such reduction is greater than the pension, including the pension-providing-for-increased-take-home-pay, payable under the option selected, the excess may be paid by the pensioner into the funds of the system, in which case the benefit due under the option shall be paid as if no reduction had occurred. If such excess is not paid by the pensioner, the benefit otherwise due under the option shall be reduced by the actuarial equivalent of such excess. In no event shall the payment to the funds be greater than the difference between the pension, including the pension-providing-for-increased-take-home-pay, without optional modification and the pension, including the pension-providing-for-increased-take-home-pay, under the option selected. The pension, including the pension-providing-for-increased-take-home-pay of a disability pensioner, shall not be reduced after he has attained the mandatory retirement age applicable to him or shall have attained the age or performed the period of service specified by applicable law for eligibility for a service retirement benefit.

c. In the event that the comptroller shall determine that a disability beneficiary is able to engage in a gainful occupation, he shall, if such beneficiary so requires, certify the name of such beneficiary to the state civil service department or appropriate civil service commission. The state civil service department or such municipal commission shall place the name of such beneficiary, as a preferred eligible, on the appropriate eligible lists prepared by it for positions for which such beneficiary is stated to be qualified in a salary grade not exceeding that from which he was last retired. If any such beneficiary shall be offered a position as a result of the placing of his name on any such civil service list, the amount of his disability pension, including the pension-providing-for-increased-take-home-pay, shall be reduced. Such reduction shall be to an amount which, when added to the amount earned or earnable by him in such position, shall not exceed his final salary. A disability beneficiary restored to active service shall not be eligible to membership in the retirement system so long as he receives

any pension, including the pension-providing-for-increased-take-home-pay.

d. In the event that a disability beneficiary is restored to active service of an employer, at a salary equal to or in excess of his final salary, his retirement allowance shall cease. Such person thereupon again shall become a member of the retirement system. He thereafter shall contribute to the retirement system in the same manner as and at the same rate that he paid prior to his disability retirement. The total service credit, to which he was entitled at the time of such retirement, again shall be credited to him. Upon his subsequent retirement, he shall be credited, in addition, with all member service earned by him subsequent to his last restoration to membership.

e. In the event that a disability retiree is restored to active service of an employer, at a salary less than his final salary but equal to or in excess of the current minimum salary for the position from which he was last retired for disability, such person, if he so elects, shall again become a member of the retirement system and his retirement allowance shall cease. He thereafter shall contribute to the retirement system in the same manner as and at the same rate that he paid prior to his disability retirement. The total service credit, to which he was entitled at the time of such retirement, again shall be credited to him. Upon his subsequent retirement, he shall be credited, in addition, with all member service earned by him subsequent to his last restoration to membership.

e-1. Notwithstanding any other provision of this section or any other provision of law, a retiree of any New York state police or fire retirement system on a disability allowance who returns to gainful employment as an elected public official shall continue to receive the full amount of his or her retirement allowance, including the pension-providing-for-increased-take-home-pay.

f. Notwithstanding any other provision of this article, the term "final salary", as used in this section, shall mean the maximum salary or compensation which the retired member currently would be receiving in

the position next higher from which he was last retired for disability, if he had not been so retired, provided, however, that if the position from which he was so retired has been abolished, the comptroller, upon the basis of salary or compensation currently paid by the retired member's last employer to persons in similar or comparable positions, shall determine, for the purposes of this section, the maximum amount of salary or compensation which such retired member currently would be receiving in such position.

TITLE 12

MISCELLANEOUS PROVISIONS; SAVING AND CONSTRUCTION CLAUSES

- Section 109. Abandonment of unclaimed contributions; payment to the pension accumulation fund.
- 109-a. Abandonment of amounts payable to beneficiaries; payment to the pension accumulation fund.
110. Exemption from taxes and legal process.
- 110-a. Deduction of group plan insurance or medicare premiums from benefits.
- 110-b. Deduction of dues and insurance premiums from benefits of certain retired members.
- 110-c. Deductions from benefits of certain retired members.
- 110-d. Deductions for federated community campaigns.
111. Protection against fraud.
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- 113-a. Suspension of state and local provisions requiring termination of service or retirement on account of age.
114. Retirement of certain state employees.
115. Teachers employed in institutions for the deaf, mute and blind.
116. Certain pensions continued.
117. Legislative intent.
118. References in laws and documents.
119. Separability clause.

§ 109. Abandonment of unclaimed contributions; payment to the pension accumulation fund. a. After at least five years have elapsed since the separation from service of a member who has not vested, for any cause other than death or retirement, the comptroller shall send a statement to such person at his last known address setting forth the amount of the accumulated contributions standing to his credit in the annuity savings fund and give notice to said person that unless he demands payment of said amount prior to a date at least one year from the date the notice is given, said accumulated contributions remaining in the annuity savings fund will be deemed abandoned and will be transferred to the pension accumulation fund.

b. After the expiration of at least one year from the date the notice is given, the comptroller shall publish in the state bulletin a list setting forth the names of persons who have unclaimed accumulated contributions in the retirement system. At the expiration of six months from the date of the publication of such list the accumulated contributions of the persons so listed shall be deemed abandoned and shall be placed in the pension accumulation fund to be used for the purposes of said fund.

c. Any accumulated contributions so deemed abandoned and transferred to the pension accumulation fund may be claimed by the person who made such accumulated contributions, or in the event of his death by his estate or by such person or persons as he shall have nominated to receive such accumulated contributions, by filing a claim with the comptroller in such form and in such manner as may be prescribed by the comptroller, seeking the return of such abandoned accumulated contributions. In the event such claim is properly made the comptroller shall pay over to the person or persons or estate making such claim the amount of such accumulated contributions without interest. The payment shall be made from the pension accumulation fund.

§ 109-a. Abandonment of amounts payable to beneficiaries; payment to

the pension accumulation fund. a. After at least one year has elapsed since a benefit has become payable to the beneficiary or estate of a retiree or member and such beneficiary or estate has failed to apply for and receive such benefit, the comptroller shall send a statement to the executor or administrator of the estate or to the designated beneficiary at his last known address setting forth the benefit payable and giving notice to such person or persons that unless demand for payment of such benefit is made prior to a date at least eighteen months from the date the notice is given, said benefit will be deemed abandoned and will be transferred to the pension accumulation fund.

b. After the expiration of at least one year from the date the notice is given, the comptroller shall publish in the state bulletin a list setting forth the names of estates or beneficiaries having an unclaimed amount in the retirement system. At the expiration of six months from the date of publication of such list the amounts so listed unless previously paid to claimant shall be deemed abandoned and shall be placed in the pension accumulation fund to be used for the purpose of said fund.

c. Any amounts so deemed abandoned and transferred to the pension accumulation fund may be claimed by the executor or administrator of the estate or beneficiaries designated to receive such amount, by filing a claim with the comptroller on such form and in such manner as be prescribed by the comptroller. In the event such claim is properly made the comptroller shall pay over to the estate or to the person or persons making such claim the amount without interest. The payment shall be made from the pension accumulation fund.

§ 110. Exemption from taxes and legal process. The right of a person to a pension, a pension-providing-for-increased-take-home-pay, an annuity or a retirement allowance, to the return of contributions, the pension, the pension-providing-for-increased-take-home-pay, annuity, or retirement allowance itself, any optional benefit, including any benefit or monies accruing under an optional retirement program pursuant to article eight-B or one hundred twenty-five-A of the education law, any

other right accrued or accruing to any person under the provisions of this chapter and the monies in the various funds continued under this chapter:

1. Are hereby exempt from any state or municipal tax, except the estate tax, and
2. Shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and
3. Shall be unassignable, except as in this chapter specifically provided.

§ 110-a. Deduction of group plan insurance or medicare premiums from benefits. Notwithstanding anything to the contrary contained in section one hundred ten of this act, the comptroller is hereby authorized to deduct from the retirement allowance of any retired member, such amount as the retired member may specify in writing filed with the comptroller for the payment of any insurance premiums written on the group plan, covering only such insurance in which the employer as defined in section two of this act contributes, and to transmit the sums so deducted to the company carrying such insurance or its authorized representative. The comptroller is further authorized to deduct from the retirement allowance of any retired member such amount as the retired member may specify in writing filed with the comptroller for the payment of any insurance premiums due for medicare, and to transmit the sums so deducted to the agency for the federal government authorized to administer the medicare program. Any such written authorization may be withdrawn by such retired member at any time upon filing notice of such withdrawal with the comptroller.

§ 110-b. Deduction of dues and insurance premiums from benefits of certain retired members. Notwithstanding any other provision of law to the contrary and subject to the provisions of a collective negotiating agreement between the state and an employee organization representing

employees whose positions are in collective negotiating units designed as the administrative services unit, operational services unit, institutional services unit or division of military and naval affairs unit established pursuant to article fourteen of the civil service law, the comptroller is hereby authorized to deduct from the retirement allowance of any retired member of such negotiating units who retired on or after January first, nineteen hundred eighty-seven an amount of membership dues as the retired member may specify in writing filed with the comptroller for the payment of such employee organization membership dues and premiums for employee organization sponsored group insurance plans. Any such written authorization may be withdrawn by such retired member at any time upon filing written notice of such withdrawal with the comptroller. Notwithstanding the foregoing provisions of this section, the employee organization certified, pursuant to article fourteen of the civil service law, to represent the collective negotiating unit from which the member retired shall have exclusive payroll deduction of membership dues and premiums for insurance and mass-merchandized automobile and homeowners' insurance policies for retired members of such collective negotiating unit. Deductions for such dues and premiums shall not be authorized for any other employee organization or group except by express written approval of such appropriate certified employee organization. Notwithstanding any other provision of law to the contrary, a retired member shall have the right, at any time after his or her retirement, to execute and file a deduction authorization card with the retirement system authorizing the payment of voluntary contributions to the political committee, as defined in section 14-100 of the election law, of such member's employee organization, provided such organization is certified or recognized pursuant to article fourteen of the civil service law as the representative of all employees in the negotiation unit in which such member was then employed. Such authorization shall continue in effect until revoked in writing by such member. The comptroller shall determine the cost of administering deductions for voluntary contributions to the political committee and the cost incurred by the retirement system in administering such contributions shall be paid from the funds of the political committee.

§ 110-c. Deductions from benefits of certain retired members.

Notwithstanding any other provision of law, a retired member shall have the right, at any time after the retiree's retirement, to execute and file a deduction authorization card with the comptroller authorizing the deduction from the retired member's retirement allowance of membership dues and such retired member's share of the cost for employee organization-sponsored benefit plans and the payment thereof to a retiree organization of which the retired member is then a member and which is then affiliated with either an employee organization certified or recognized as the collective bargaining representative of all employees in the negotiating unit of which the retired member was a part prior to his or her retirement or with an employee organization with which such employee organization is then affiliated. The comptroller shall thereafter deduct from the retirement allowance of such retired member the amount of membership dues and such amounts required to be paid by such retired member for such authorized employee organization-sponsored benefit plans, and shall transmit the sum so deducted to said retiree organization. Such authorization shall continue in effect until revoked in writing by such retired member. For purposes of this section the term "employee organization-sponsored benefit plans" shall include any and all insurance plans and/or other benefit plans sponsored by such retiree organization whether provided by (a) a not-for-profit corporation licensed under article forty-three of the insurance law; (b) any insurance company authorized to do business in this state; (c) a health maintenance organization issued a certificate of authority pursuant to article forty-four of the public health law; or (d) a self-insurance arrangement, welfare fund or benefit fund.

§ 110-d. Deductions for federated community campaigns. Notwithstanding any other provision of law, the comptroller is hereby authorized to deduct from the retirement allowance of any retired member of the state such amount as such retired member may specify in writing filed with the comptroller within the minimum and maximum amounts prescribed by the comptroller for contribution to federated community campaigns for health, welfare, and recreational purposes on behalf of such retired

member and to the account of such retired member with such federated community campaign. The comptroller is hereby authorized to make such rules and regulations to be incorporated in the retired members written authorization filed in a manner determined by the comptroller. Any such written authorization may be withdrawn by such retired member at any time upon filing written notice of such withdrawal in a manner determined by the comptroller. As used in this section, "federated community campaign" means a charitable non-profit organization which solicits funds for distribution among a substantial number of charitable non-profit organizations, which has been approved as such by the commissioner of general services. The commissioner of general services shall approve no more than one federated community campaign within a county or group of counties in which such campaign is operating. He or she shall not approve a federated community campaign in any county or group of counties where, in his or her opinion and judgement, the number of state employees or retired members to be solicited by such campaign is too small to make deductions or contributions by the comptroller practicable or feasible. The commissioner of general services shall have power to make such reasonable rules and regulations not inconsistent with the law, as may be necessary for the exercise of his or her authority under this section.

§ 111. Protection against fraud. a. Any person who shall:

1. Knowingly make any false statement, or

2. Falsify or permit to be falsified any record of the retirement system, in any attempt to defraud such system as the result of such act shall be guilty of a misdemeanor.

b. Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of one thousand dollars more than he or she would have been entitled to shall be a class E felony. Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of three

thousand dollars more than he or she would have been entitled to shall be a class D felony.

c. In the event that any change or error in any record of the retirement system causes a member or beneficiary of such system to receive more or less than he would have been entitled to receive had such record been correct, the comptroller, upon the discovery of any such change or error, shall correct such record. As far as practicable, the comptroller shall adjust payments in such a manner that the actuarial equivalent of any benefit rightly due shall be paid.

§ 111-a. Bonds required in certain cases. a. In any case where, by order of a court of competent jurisdiction, the retirement system is required to pay over a benefit which is payable in installments and which is predicated upon the life of a beneficiary, to a payee other than the recipient who ordinarily would have taken the benefit pursuant to the provisions of this article, such payee must file a bond. The bond shall be in favor of the comptroller as administrative head of the retirement system and shall indemnify him against loss by reason of excess payments to such payee, after benefits have ceased to become payable for any reason whatsoever.

The amount of the bond shall be fixed by the court in a sum not less than the total amount such payee is expected to take for a period of two years. The bond with at least two sureties must be approved by the court. It must be filed with the clerk of the court and a certified copy thereof served upon the comptroller. Before the bond shall be approved there shall be filed in the court by every surety an acknowledged instrument wherein the surety designates the clerk of the court and his successors in office as a person upon whom service of any process issuing from the court may be made in like manner and with like effect as if served personally upon the surety, whenever such surety after the exercise of due diligence cannot be found and served within the state of New York.

Insofar as they are consistent with this article, the provisions of

law relating to bonds and undertakings in a civil action in the supreme court shall apply to bonds required by this subdivision.

b. Notwithstanding any provisions to the contrary in subdivision a of this section, if the retirement system is required to pay over a benefit which is payable in installments and which is predicated upon the life of a beneficiary, to a payee other than the recipient who ordinarily would have taken the benefit pursuant to the provisions of this chapter, such payee shall not be required to file a bond or any other undertaking where such payment is required by order of a court of competent jurisdiction as the result of an action or proceeding for equitable distribution, alimony, maintenance or child support pursuant to article three-A or thirteen of the domestic relations law, article four of the family court act, title six-A or six-B of article three of the social services law, section fifty-two hundred forty-two of the civil practice law and rules, or by an income execution issued pursuant to section fifty-two hundred forty-one of the civil practice law and rules.

Upon the payment of such benefit, the retirement system shall be relieved and held harmless from any and all liability for any claim of excess payment which exists at the time with reference to such benefit or may thereafter be made on account of such benefit.

§ 112. Limitation of other statutes. a. No other provision of law in any other statute which provides wholly or partly at the expense of the state or of a participating employer for pensions, retirement benefits, emoluments or awards for employees in government service, their widows or other dependents, shall apply to members or beneficiaries of the retirement system continued by this article, their widows or other dependents.

b. This article shall not:

1. Prevent a person whose salary is paid from two or more sources, each entitling him to membership in a retirement system, from being a member in all such systems, or

2. Supersede or make inoperative the provisions of section two hundred twenty-seven of the executive law in so far as they apply to an officer or employee in the division of state police of the executive department who is a member of the retirement system.

3. Supersede or make inoperative the provisions of sections twenty-five or twenty-five-a of the judiciary law in reference to a judicial officer retired from office for disability.

4. Prevent the extension of old-age and survivors insurance coverage to members of the retirement system or the receipt of benefits therefrom by such members, their wives or widows or their other dependents.

5. Prevent a member of the state retirement system whose membership is authorized by paragraph nine of subdivision c of section forty of this article, from receiving, upon his subsequent retirement from the state retirement system, benefits based on service not included in that upon which his retirement or pension from another pension or retirement system is or would be based.

6. Prevent payment of a survivor's benefit, pursuant to section one hundred fifty-four of the civil service law, on account of the death of a member of the retirement system.

c. The provisions of this article shall be operative, notwithstanding any contrary provision of law.

§ 113. Creation or modification of local retirement systems prohibited. a. No municipality, after April twelfth, nineteen hundred twenty-two, shall create any retirement system for its officers or employees.

b. Notwithstanding any inconsistent provisions of any general, special or local law, ordinance or city or village charter, no municipality shall have power to add, change, modify, supersede, amend or repeal any

provision relating to contributions payable to or pensions, annuities, or other benefits payable by any pension or retirement system or fund administered by such municipality or an agency thereof for the benefit of officers or employees of such municipality, except as provided herein or in article four or article six of this chapter. Any such provision for the payment of a pension or retirement allowance of a fixed amount, expressed in dollars, may be amended by the municipality to provide future retirees with a pension or retirement allowance in terms of a percentage, not to exceed fifty per cent, of the annual salary before retirement of the officer or employee.

c. The provisions of subdivision b of this section shall not prevent a municipality having the power to adopt local laws to provide by local law, or a municipality not having the power to adopt local laws to provide by ordinance or resolution, for increased-take-home-pay for members of a pension or retirement system or fund administered by it or by any agency thereof. Such local law, ordinance, or resolution may provide a plan for increased-take-home-pay which shall not be inconsistent with the provisions, limitations, restrictions and payroll periods of the plans for increased-take-home-pay provided by chapters of the laws of nineteen hundred sixty, entitled "An act to amend the retirement and social security law, in relation to the addition of pensions providing-for-increased-take-home-pay, death benefits, and reopening of a plan for retirement at age fifty-five", "An act to amend the retirement and social security law, in relation to authorizing the provision of added pensions-providing-for-increased-take-home-pay and death benefits for officers and employees of participating employers in the New York state employees' retirement system", "An act to amend the mental hygiene law, in relation to reducing contributions of members of the New York state hospital system and providing added death benefits," and any acts amendatory thereof.

§ 113-a. Suspension of state and local provisions requiring termination of service or retirement on account of age. In the case of persons who have not attained eligibility for the payment of benefits under the federal old-age and survivors insurance law, the provisions of

any general, special or local law, city or village charter, ordinance, resolution, rule or regulation relating to employment by the state or a municipality or to membership in any public pension or retirement system maintained by any of them which require or authorize the termination of service or retirement of any public employee or member of any such system, without his application or consent, on account of his attaining age of compulsory retirement, are hereby suspended so that terminations of service or retirements thereunder may not be required to become effective until such eligibility for the payment of benefits under the federal old-age and survivors insurance law has been attained or before June thirtieth, nineteen hundred fifty-nine or, in the case of members of the New York city teachers' retirement system, before August thirty-first, nineteen hundred fifty-nine, whichever shall first occur.

This section shall not apply to any officer appointed for a fixed term or serving at the pleasure of an appointing officer or body provided however, that the appointing officer or body, for the purposes of and within the limitations of this section, shall have power to extend the service of any such officer for any period ending not later than June thirtieth, nineteen hundred fifty-nine, which extension shall be at the pleasure of the officer or body having the power of appointment. This section shall not apply to any person serving in an elective office nor to officers or employees of instrumentalities jointly created by this state and any other state or states.

§ 114. Retirement of certain state employees. All state employees, except teachers in the state college for teachers and the state normal schools and teachers in the state agricultural and industrial school who shall be considered as teachers subject to the provisions of article eleven of the education law, and, except such state employees as are otherwise provided for by the mental hygiene law and the correction law, who were included under the provisions of chapter four hundred and forty-one of the laws of nineteen hundred ten; chapter one hundred and eighty-five of the laws of nineteen hundred thirteen; chapter five hundred and eleven and section sixteen of chapter three hundred and sixty-nine of the laws of nineteen hundred fourteen; chapters five

hundred and fifty-seven and six hundred and fourteen of the laws of nineteen hundred fifteen; chapter two hundred and twenty-one of the laws of nineteen hundred nineteen; chapter seven hundred and ninety-four of the laws of nineteen hundred twenty, who elected to become members of the New York state employees' retirement system on or before January first, nineteen hundred twenty-two, shall continue to be members of such system and shall be subject to all the provisions of law relative to such system with the exception that they shall be entitled to credit for prior service as defined by section two of this chapter, including service as a grand jury stenographer, up to and including July first, nineteen hundred twenty-one. All teachers of the state agricultural and industrial school who were entitled to retirement under section ten hundred and ninety-five of the education law, as added by chapter four hundred and forty-one of the laws of nineteen hundred ten, who have become or hereafter become members of the state teachers' retirement system, shall be entitled to credit for the same service upon retirement under the laws relating to such system, as they would have been entitled to receive under the provisions of said section ten hundred and ninety-five of the education law.

§ 115. Teachers employed in institutions for the deaf, mute and blind. Notwithstanding the provisions of sections six and seven of chapter five hundred and sixty-eight of the laws of nineteen hundred twenty-one, the provisions of chapter four hundred and forty-one of the laws of nineteen hundred ten and of chapter six hundred and fourteen of the laws of nineteen hundred fifteen, so far as the same shall relate to the retirement of teachers employed in institutions for the deaf and mute and the blind, receiving state pupils whose instruction and support are paid for by the state, the procedure for the retirement of such teachers, the amount of allowances to be paid to them on retirement and the time and manner of payment of such allowances, shall continue in full force and effect until such teachers are transferred to some other retirement system and provision is made for their retirement and the payment of allowances to them.

§ 116. Certain pensions continued. The pensions of all pensioners drawing pensions under the provisions of any law repealed by chapter five hundred and sixty-eight of the laws of nineteen hundred twenty-one, on June thirtieth of the year in which such law was repealed, shall be continued and paid out of any funds accumulated under such law and not returned to employees. The amount required in addition to continue the pensions of such pensioners shall be paid by the state of New York by annual appropriations made therefor from the general fund.

§ 117. Legislative intent. In so far as this article, as added by chapter eight hundred forty-one of the laws of nineteen hundred forty-seven, as amended by chapter five hundred three of the laws of nineteen hundred forty-eight, as amended by chapter six hundred forty-eight of the laws of nineteen hundred forty-nine, or as amended by this act relates to rights to membership in or to rights or benefits of members of the retirement system, it is the intent of the legislature to codify the provisions of former articles four and five of the civil service law which relate thereto and which were in effect immediately prior thereto. No diminution or impairment, within the provisions of article five, section seven of the state constitution, and no increase of such rights or benefits is intended to be effectuated by this article as so added or amended. If, in codifying the provisions of such former articles four and five, this article as so added or amended:

1. Omits any provision of such articles which is not obsolete, has not expired, or has not been superseded or specifically or impliedly repealed, or

2. Incorporates any provision of such articles which has been superseded or specifically or impliedly repealed, or

3. Incorporates any new provision which is not, in effect, a revision, consolidation, codification, continuance or restatement of provisions of such articles or of other applicable provisions of law, relative to rights to membership in or to rights or benefits of members of the retirement system, such omission or incorporation shall be deemed

an inadvertence or error. The right to rectify any such inadvertence or error at any time is hereby reserved.

§ 118. References in laws and documents. Reference in any general, special or local law, rule, regulation or public document to an existing article, section, subdivision or other provision of article four or article five of the civil service law, as in force immediately prior to July first, nineteen hundred forty-eight, or July first, nineteen hundred fifty-six, shall be deemed and construed to refer to the corresponding section, subdivision or other provision of this article, as added by chapter eight hundred forty-one of the laws of nineteen hundred forty-seven, or as amended or supplemented thereafter, or amended by this act, as the case may be.

§ 119. Separability clause. If any clause, sentence, paragraph, section or part of this article, as originally added by chapter eight hundred forty-one of the laws of nineteen hundred forty-seven, or as amended or supplemented heretofore or hereafter, shall be adjudged by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE 3

FEDERAL OLD-AGE AND SURVIVORS INSURANCE COVERAGE FOR CERTAIN PUBLIC EMPLOYEES

Section 130. Short title.

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- 138-a. Referenda among public employees; extension of old-age and survivors insurance.
- 138-b. Use of annuity contributions to pay old-age and survivors insurance contributions.
- 139. Costs of administration.
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- 143. Restriction on use of retirement or pension funds.
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- 146. References in laws and documents.
- 147. Separability clause.

§ 130. This article shall be known and may be cited as the "New York State Social Security Act. "

§ 130-a. Declaration of policy. The legislature hereby determines that (1) employees of the state and its political subdivisions, their survivors and dependents, are entitled to the basic protection provided by the federal old-age and survivors insurance system, (2) such protection should be provided to as many of such employees as possible, regardless of whether they are or are not members of public pension or retirement systems maintained by the state or its political subdivisions, with the option to those who are presently members of a retirement system to have or not to have such additional protection as they so desire, (3) such extension of old-age and survivors insurance coverage to public employees in this state is consistent with principles of sound employer-employee relations, (4) provision of such coverage will provide not only basic security to present employees and their dependents, but also will serve to attract competent persons to the employ of the state and its political subdivisions who now may be

discouraged from accepting such employment by reason of the fact that their old-age and survivors insurance coverage obtained through private or self employment would not be continued, and (5) the protection afforded to employees in positions covered by any retirement system in the state on the date old-age and survivors insurance coverage is extended to their positions will not be impaired as the result of such extension of coverage or as the result of legislative enactment in anticipation thereof.

§ 131. Definitions. As used in this article, the following terms shall mean and include:

1. "Political subdivision." A public corporation (other than a public corporation created pursuant to agreement or compact with another state or states), improvement district, and any other political subdivision of the state and the New York State School Boards Association, Inc., the County Officers' Association of the State of New York, the New York State Conference of Mayors and other Municipal Officials, the Association of Towns of the State of New York and any Regional Planning Board, created pursuant to article twelve-B or five-G of the general municipal law whose membership consists only of counties, as instrumentalities of political subdivisions of the State.

2. "Federal social security act." The social security act enacted by the congress and approved August fourteenth, nineteen hundred thirty-five (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be amended.

3. "Federal insurance contributions act." Subchapter A of chapter twenty-one of the federal internal revenue code as such code has been and may from time to time be amended.

4. "Federal secretary." The federal secretary of health, education and welfare under the federal social security act.

5. "Old-age and survivors insurance coverage." The old-age and

survivors insurance coverage provided by title two of the federal social security act.

6. "Employee." An officer or employee of the state or of a political subdivision.

7. "Employment." Any service performed by an employee in the employ of the state or any political subdivision except (a) service which, in the absence of an agreement entered into under this article, would constitute "employment" as defined in the federal social security act, or (b) service which, under the federal social security act, may not be included in an agreement between the state and the federal secretary entered into pursuant to this article. In the case of service which under the federal social security act may be included in an agreement only upon certification by the governor in accordance with section two hundred eighteen (d) (3) of that act, such service shall be included in the term "employment" in the event that the governor so certifies to the federal secretary and the state's agreement with such secretary is modified to include such service.

8. "Wages." All remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that part of such remuneration which, even if it were for "employment" within the meaning of the federal insurance contributions act, would not constitute "wages" within the meaning of that act.

9. "Contribution fund." The social security contribution fund established by section one hundred forty-one of this chapter.

10. "Comptroller." The state comptroller.

11. "State retirement system." The corporation continued by section ten of this chapter, known as the New York state employees' retirement system.

12. "State agency." The New York state social security agency, established by this article.

13. "Director." The director of the state agency.

§ 132. New York state social security agency established. There is hereby established in the state retirement system an agency of the state to be known as the "New York state social security agency." The director shall have charge of such agency.

§ 133. Agreement with federal secretary. 1. The director is hereby authorized, on behalf of the state, to enter into an agreement with the federal secretary for the purpose of extending old-age and survivors insurance coverage to eligible employees of the state or of any political subdivision.

2. The agreement with the federal secretary shall provide that the state will pay to the secretary of the treasury of the United States, at such time or times as may be prescribed under the federal social security act, contributions with respect to wages, equal to the sum of the taxes which would be imposed by sections thirty-one hundred one and thirty-one hundred eleven of the federal insurance contributions act if the services covered by such agreement constituted employment within the meaning of that act. Such agreement also may contain such provisions relating to coverage, benefits, contributions, adjustments, refunds, administration, effective date, modification and termination of the agreement and such other appropriate provisions as the director and the federal secretary may agree upon and which are consistent with this article and the federal social security act. Such agreement, or any modification thereof, may be made retroactive where authorized by the federal social security act.

3. Such agreement shall apply to:

a. All services which constitute employment and are performed in the employ of the state by employees thereof, provided, however, that the director may exclude from coverage under such agreement, or modification

thereof, in accordance with the federal social security act, classes of employment where he shall determine that old-age and survivors insurance coverage for such classes is impracticable; and

b. All services which constitute employment and are performed in the employ of a political subdivision, whether or not covered by an agreement entered into pursuant to section one hundred thirty-six of this chapter, provided, however, that the director may exclude from coverage under such agreement, or modification thereof, in accordance with the federal social security act, classes of employment where he shall determine that old-age and survivors insurance coverage for such classes is impracticable.

4. Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the federal secretary to provide old-age and survivors insurance benefits to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the tax which would be imposed by section thirty-one hundred one of the federal insurance contributions act, (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds equal to the amount of the tax which would be imposed by section thirty-one hundred eleven of the federal insurance contributions act, and (d) otherwise to comply with such agreements.

§ 134. Contributions by state employees. 1. Every employee of the state, whose services are covered by the agreement with the federal secretary entered into pursuant to section one hundred thirty-three of this chapter, shall be required to pay into the contribution fund for the period of such coverage contributions, with respect to wages, equal to the tax which would be imposed by section thirty-one hundred one of the federal insurance contributions act, if such services constituted employment within the meaning of that act.

2. The comptroller or other appropriate officer or body is hereby authorized and directed to deduct and collect from the wages paid to each employee of the state, as and when paid, the contribution imposed by this section. Amounts so deducted and collected shall be deposited in and credited to the contribution fund. Failure to deduct and collect any such contribution shall not relieve the employee from liability therefor.

3. If the correct amount of the contribution imposed by this section is not paid or deducted and collected with respect to any wages received, proper adjustments, or refund without interest if adjustment is impracticable, shall be made, in such manner and at such times as may be prescribed in the regulations of the director.

§ 135. Contributions by the state. 1. On the certificate of the comptroller, or his designee, and after audit by and upon the warrant of the comptroller, there shall be paid into the contribution fund from time to time from moneys appropriated therefor, contributions with respect to wages of employees of the state covered under the agreement with the federal secretary entered into pursuant to section one hundred thirty-three of this chapter equal to the amount of the tax which would be imposed by section thirty-one hundred eleven of the federal insurance contributions act, if the services covered by such agreement constituted employment within the meaning of that act.

2. There shall be included in the budget estimate of the state agency furnished to the division of the budget an estimate of the amount necessary to be appropriated for the ensuing fiscal year of the state to meet payments to the contribution fund required during such fiscal year pursuant to subdivision one of this section.

§ 136. Agreements with political subdivisions. 1. By the adoption of a resolution in the manner provided by subdivision a of section thirty of this chapter, any political subdivision may elect to extend old-age and survivors insurance coverage to its eligible employees pursuant to

this article. It shall thereupon submit to the director a proposed agreement for obtaining such coverage for such employees. Such agreement shall include such provisions as may be required by the director to effect the purposes of this article.

2. The director shall approve any such agreement or any modification thereof which is in conformity with this article and the regulations of the director, and such agreement or modification shall become effective in accordance with the terms of such approval. Subject to the provisions of the federal social security act, any such agreement may be made retroactive where authorized by the federal social security act, in which event necessary contributions shall be made to the contribution fund by the political subdivision and the employees covered by such agreement for the period of employment prior to the date of approval of such agreement. No agreement or modification thereof shall be approved unless:

a. It is in conformity with the requirements of the federal social security act and with the agreement authorized to be entered into by section one hundred thirty-three of this chapter.

b. It applies to all services which constitute employment and which are performed in the employ of the political subdivision, provided, however, that the director may permit such political subdivision to exclude from coverage under such agreement, in accordance with the federal social security act, classes of employment where the director shall determine that old-age and survivors insurance coverage for such classes is impracticable.

c. It provides for such methods of administration of the agreement by the political subdivision as are found by the director to be necessary for the proper and efficient administration of the agreement.

d. It provides that the political subdivision will make such reports, in such form and including such information, as the director may from time to time request, and comply with such requirements as the director or the federal secretary may from time to time find necessary to assure

the correctness and verification of such reports.

e. 1. Notwithstanding any other provision of law, the board of estimate, if there be one, or the local legislative body where there is no board of estimate, of any political subdivision, in its discretion, may exclude from eligibility for membership in any local pension or retirement system maintained by such political subdivision, or any agency thereof, any class or classes of offices or positions in the service of such political subdivision, or any agency thereof, where coverage of such class or classes by old-age and survivors insurance under the federal social security act would, in its judgment, be advantageous to those serving in such class or classes. The exclusion of any such class or classes shall not become effective until an agreement shall have been entered into with the state of New York to extend old-age and survivors insurance coverage for such class or classes as provided in this article. The exclusion of any such class or classes shall not affect the membership of any officer or employee in any such pension or retirement system.

2. Nothing in this section shall be construed to deny to any member of any local pension or retirement system maintained by a political subdivision, or any agency thereof, of credit therein for service in any position for any period during which old-age and survivor's insurance coverage under the federal social security act was provided for such position and during which incumbents of such position were ineligible for membership in any such pension or retirement system.

3. The power to exclude employees from eligibility for membership in a local pension or retirement system pursuant to subparagraph one of this paragraph e shall terminate with respect to any such system on the day after the modification extending the old-age and survivors insurance system to any position covered by such system is executed.

§ 137. Termination of agreements with political subdivisions. 1. Upon the failure of any political subdivision to comply substantially with any provision of its agreement or any modification thereof, this

article, or the regulations of the director, such agreement may be terminated by the director, consistent with the provisions of the federal social security act. No such termination, except where such termination has been made by the federal secretary, shall be made by the director until after a public hearing upon not less than sixty days' written notice to the political subdivision.

2. Any political subdivision, upon giving such advance written notice as shall be required in its agreement, may terminate the agreement, but such termination shall take effect only after the agreement shall have been in effect for a period of at least seven years and after notice shall have been given to the federal secretary.

3. If any agreement is terminated, either by the director or by the political subdivision, such political subdivision may not again submit an agreement pursuant to this article.

§ 138. Contributions by political subdivisions and employees thereof.

1. Each political subdivision, the agreement of which has been approved, is hereby authorized and directed to pay into the contribution fund at such time or times as the director may prescribe in his regulations, contributions with respect to wages of its employees covered thereunder equal to the amount of the taxes which would be imposed by sections thirty-one hundred one and thirty-one hundred eleven of the federal insurance contributions act, if the services covered by the agreement constituted employment within the meaning of that act.

2. Each political subdivision, the agreement of which has been approved, is hereby authorized and directed to deduct and collect from the wages paid to each employee covered by its agreement contributions equal to the amount of the tax which would be imposed by section thirty-one hundred one of the federal insurance contributions act, if the services covered by the agreement constituted employment within the meaning of that act. Contributions so deducted and collected shall be held in trust for payment to the contributions fund by the political subdivision as required by subdivision one of this section. Failure to

collect or deduct such contributions shall not relieve the political subdivisions or the employee of liability therefor.

3. If the correct amount shall not have been paid into the contribution fund by any political subdivision, proper adjustments, or refund without interest if the director shall determine that adjustment is impractical, shall be made.

4. If the correct amount shall not have been deducted and collected by a political subdivision from the wages of an employee pursuant to this article, proper adjustments, or refund without interest if adjustment is determined to be impractical, shall be made by such political subdivision, in such manner and at such times as may be prescribed in the regulations of the director.

§ 138-a. Referenda among public employees; extension of old-age and survivors insurance. 1. As soon as practicable after the effective date hereof, the governor or the state agency or officer designated by him shall, in accordance with the applicable provisions of the federal social security act and subdivision thirteen of this section, authorize the separate referenda described below (and thereafter, such similarly separated referenda as may be deemed appropriate and be consistent with this article and such federal act):

a. One referendum among all eligible employees of the state (exclusive of those in police officer or firefighter positions) who are members of the New York state employees' retirement system, a second referendum among all eligible employees of political subdivisions of the state (exclusive of those in police officer or firefighter positions) who are members of such retirement system, which subdivisions elected to provide seven calendar quarters of retroactive coverage for such employees pursuant to subdivision seven of this section, a third referendum among all eligible employees of political subdivisions of the state (exclusive of those in police officer or firefighter positions) who are members of such retirement system, which subdivisions elected to provide six calendar quarters of retroactive coverage for such employees pursuant to

subdivision seven of this section, a fourth referendum among all eligible employees of political subdivisions of the state (exclusive of those in police officer or firefighter positions) who are members of such retirement system, which subdivisions elected to provide four calendar quarters of retroactive coverage for such employees pursuant to subdivision seven of this section, and a fifth referendum among all eligible employees of the remaining political subdivisions of the state (exclusive of those in police officer or firefighter positions) who are members of such retirement system, on the question of whether service in positions (exclusive of police officer or firefighter positions) in the employ of the state or of such political subdivisions, as the case may be, and covered by such system also shall be covered by old-age and survivors insurance.

b. Separate referenda among eligible employees of the state (exclusive of those in police officer or firefighter positions) whose positions are covered by a separate retirement system or plan maintained by the state, other than the New York state and local employees' retirement system or the New York state teachers' retirement system, and who are members of such system or plan, on the question of whether service in positions (exclusive of police officer or firefighter positions) covered by such system or plan also shall be covered by old-age and survivors insurance.

c. One referendum among all eligible employees of the state who are members of the New York state teachers' retirement system, a second referendum among all eligible employees of political subdivisions of the state who are members of such retirement system, which subdivisions elected to provide seven calendar quarters of retroactive coverage for such employees pursuant to subdivision seven of this section, a third referendum among all eligible employees of political subdivisions of the state who are members of such retirement system, which subdivisions elected to provide six calendar quarters of retroactive coverage for such employees pursuant to subdivision seven of this section, a fourth referendum among all eligible employees of political subdivisions of the state who are members of such retirement system, which subdivisions elected to provide four calendar quarters of retroactive coverage for such employees pursuant to subdivision seven of this section, and a

fifth referendum among all eligible employees of the remaining political subdivisions of the state who are members of such retirement system, on the question of whether service in positions covered by such system also shall be covered by old-age and survivors insurance.

d. Separate referenda among eligible employees of each political subdivision (exclusive of those in police officer or firefighter positions) who are members of a retirement system or plan maintained by such political subdivision other than a retirement system relating to retirement benefits under the Canada pension plan, on the question of whether service in positions in the employ of such political subdivision and covered by such system or plan also shall be covered by old-age and survivors insurance. The modification providing old-age and survivors insurance coverage pursuant to such referenda shall provide such retroactive coverage, if any, and shall exclude from old-age and survivors insurance coverage such classes of employment as authorized by paragraph b of subdivision two of section one hundred thirty-six of this article, if any, as the governing body of such political subdivision shall determine, consistent with the federal social security act. Such determination shall be made within a reasonable period of time fixed by the director and indicated in a certificate filed with the director.

2. In the event the federal social security act is amended to authorize the extension of old-age and survivors insurance coverage to service performed in this state in police officer or firefighter positions, the governor or the state agency or officer designated by him or her shall, as soon as practicable after the enactment of such amendment and in accordance with the applicable provisions of such federal act and subdivision thirteen of this section, to the extent then applicable, shall take such action as may be necessary to extend old-age and survivors insurance coverage to such positions, including, to the extent applicable, referenda as follows:

a. One referendum among all eligible employees of the state serving in police officer or firefighter positions who are members of the New York state and local employees' retirement system.

b. A separate referendum among all eligible employees of the state serving in police officer or firefighter positions whose positions are covered by a retirement system or plan maintained by the state other than the New York state and local employees' retirement system, and who are members of such system or plan.

c. One referendum among all eligible employees of political subdivisions of the state serving in police officer or firefighter positions who are members of the New York state and local employees' retirement system, which political subdivisions elected to provide retroactive coverage to or about March sixteenth, nineteen hundred fifty-six, to such employees pursuant to subdivision seven of this section, a second referendum among all eligible employees of political subdivisions of the state serving in police officer or firefighter positions who are members of such retirement system, which subdivisions elected to provide retroactive coverage to or about June sixteenth, nineteen hundred fifty-six, to such employees pursuant to subdivision seven of this section, a third referendum among all eligible employees of political subdivisions of the state serving in police officer or firefighter positions who are members of such retirement system, which political subdivisions elected to provide retroactive coverage to or about December sixteenth, nineteen hundred fifty-six, to such employees pursuant to subdivision seven of this section, and a fourth referendum among all eligible employees of the remaining political subdivisions of the state serving in police officer or firefighter positions who are members of such system, which eligible employees shall have retroactive coverage to or about December sixteenth, nineteen hundred fifty-seven.

d. Separate referenda among eligible employees of each political subdivision serving in police officer or firefighter positions whose positions are covered by a separate retirement system or plan maintained by such political subdivision and who are members of such system or plan. Each such referendum shall be on the question of whether service in the police officer or firefighter positions affected thereby also shall be covered by old-age and survivors insurance.

2-a. Notwithstanding any inconsistent provision of this article:

a. The alternative referendum and certification procedure provided by paragraph seven of subdivision (d) of section two hundred eighteen of the federal social security act, as added by public law eighty-five-two hundred twenty-nine, may be followed in lieu of any referendum and certification of the result thereof as required by this section. All actions heretofore duly taken which comply or anticipate compliance with any procedure authorized or contemplated by such paragraph seven are hereby ratified and confirmed and shall be deemed to have been taken in full compliance with this section.

b. Any action duly taken which extended or extends retroactive coverage to a date on or about March sixteenth, nineteen hundred fifty-six, or thereafter, for any public employees, including those not provided with such coverage prior to January first, nineteen hundred fifty-eight, is hereby ratified and confirmed and such retroactive coverage shall be deemed to have been provided in full compliance with this section as hereby amended.

3. Each notice of referendum required by the federal social security act to be given to employees shall contain or shall be accompanied by a statement, in such form and with such detail as the governor, or the state agency or officer designated by him, shall determine is sufficient to inform such employees of the rights which will accrue to them, their dependents and survivors, and of the liabilities to which they will be subject in the event that service in their positions is covered by old-age and survivors insurance. Such information also shall be made available to employees for a reasonable period before they are required to indicate, pursuant to subdivision thirteen of this section, whether they desire old-age and survivors insurance coverage.

4. The governor or the state agency or officer designated by him shall have power to require the filing by public agencies and officers of information and data necessary for the conduct of referenda provided for herein and the determination of the results thereof.

5. Where in any such referendum a majority of the eligible employees

vote in favor of covering service in positions covered by a retirement system or plan under old-age and survivors insurance, and the other applicable conditions of the federal social security act have been met, the governor shall make the necessary certificate to the federal secretary in accordance with such act.

6. Whenever any such certification is made to the federal secretary, the director shall take the necessary action to effectuate the result of such referendum and modify the state's agreement with the federal secretary accordingly, except that with respect to the referenda provided by paragraph c of subdivision one of this section among eligible employees of political subdivisions who are members of the New York state teachers' retirement system, no such modification shall be made with respect to employees of political subdivisions unless a majority of all the members of the system (counted without reference to any division theretofore made pursuant to subdivision thirteen hereof) employed by political subdivisions voted in favor of coverage in such referenda.

7. In the event a referendum which includes employees of the state favors the extension of old-age and survivors insurance coverage to positions in the employ of the state, the director shall, in such modification, provide for retroactive coverage to March sixteenth, nineteen hundred fifty-six. The director shall fix a reasonable period of time during which the governing body of each political subdivision, having employees who are members of the New York state employees' retirement system, the New York state teachers' retirement system, or a pension or retirement system maintained by the political subdivision may determine to provide retroactive coverage to or about March sixteenth, nineteen hundred fifty-six, June sixteenth, nineteen hundred fifty-six, December sixteenth, nineteen hundred fifty-six, or December sixteenth, nineteen hundred fifty-seven to its employees who are members of any of such systems. The director shall have power to fix the precise retroactive date in each such case.

7-a. Notwithstanding any action previously taken by the governing body of any political subdivision with respect to whether or not retroactive

coverage should be extended to any of its employees or the amount of retroactive coverage which it has provided, and notwithstanding any inconsistent provision of this section or of any general, special or local law, city or village charter, ordinance or resolution, in the event the federal social security act authorizes or is amended to authorize it to do so such governing body may, during the period authorized by and in the manner provided by such act, extend retroactive coverage to employees of such political subdivision to a date not earlier than one in the first calendar quarter of nineteen hundred fifty-six so that only one payroll date or such other minimum period, determined by the director, shall be included in such retroactive period to accomplish the result of providing retroactive coverage for the earliest calendar quarter to be included in such retroactive coverage. The director shall have power to fix the precise retroactive date in each such case.

8. a. Notwithstanding any other provision of law, any individual who, on or after August first, nineteen hundred fifty-six, had an option to join a retirement system or plan applicable to his position and who could have joined such retirement system or plan prior to the execution date of a modification extending old-age and survivors insurance to any position covered by such retirement system or plan, but who had not joined such retirement system or plan prior thereto, is hereby declared personally ineligible for membership in such retirement system or plan, effective as of August first, nineteen hundred fifty-six, or if he first occupies such position later, such later date.

b. The director shall modify the federal agreement under this article to provide old-age and survivors insurance coverage to individuals in the employ of the state who are ineligible to become members of a retirement system applicable to their positions, including individuals to whom paragraph a of this subdivision is applicable, and provide, with respect to such individuals, the retroactive coverage specified in subdivision seven of this section.

c. The director shall modify the federal agreement under this article to provide old-age and survivors insurance coverage to individuals in

the employ of any political subdivision of the state who are ineligible to become members of a retirement system applicable to their positions, including individuals to whom paragraph a of this subdivision is applicable, and provide, with respect to such individuals, the retroactive coverage, if any, and the excludable classes of employment as authorized by paragraph b of subdivision two of section one hundred thirty-six of this article, if any, determined by the governing body of the political subdivision by which such individuals are employed, consistent with the federal social security act.

d. Eligibility for membership in a retirement system or plan is hereby restored to every employee who was made ineligible for membership in such a system or plan by operation of any provision of paragraph a, b or c of this subdivision eight as originally enacted by chapter seven hundred seventy-six of the laws of nineteen hundred fifty-seven.

9. In the event that a referendum among eligible employees of the state or of one or more political subdivisions favors the extension of old-age and survivors insurance coverage to positions covered by a retirement system or plan of which they are members, persons who are members of such system or plan as of the referendum date shall be given such coverage only if they indicated their desire therefor, prior to the applicable referendum, in such manner and on or before such date as the director shall specify by rule or regulation consistent with the federal social security act.

10. a. In the event that the referenda among eligible employees of political subdivisions of the state (exclusive of those in police officer or firefighter positions) who are members of the New York state and local employees' retirement system favor the extension of old-age and survivors insurance coverage to their positions, all positions in the employ of each political subdivision of the state, except those covered by a retirement system or plan of the state or the political subdivision and subject to separate referenda hereunder, and except those excluded from coverage pursuant to paragraph b of subdivision two of section one hundred thirty-six of this article, also shall be covered by old-age and survivors insurance at or about the same time that the

director modifies the agreement with the federal secretary to effectuate the result of such referenda as to the political subdivisions affected thereby. Each political subdivision to which old-age and survivors insurance is extended pursuant to this subdivision shall have the option, within a reasonable period of time fixed by the director, to file a certificate with the director fixing the effective date of its coverage (which may include retroactive coverage for such period as its governing body shall determine subject to the federal social security act and which effective date shall be not later than its last payroll date in December nineteen hundred fifty-seven) and excluding from coverage classes of employment as authorized by paragraph b of subdivision two of section one hundred thirty-six of this article.

b. In the event that the referenda among eligible employees of political subdivisions of the state who are members of the New York state employees' retirement system favor the extension of old-age and survivors insurance coverage to their positions, all positions in the employ of a political subdivision of the state which is created subsequent to the date of the modification of the agreement with the federal secretary, to effectuate the result of such referenda also shall be covered by old-age and survivors insurance, effective the date the political subdivision first has employees on the payroll, or becomes eligible, or as soon thereafter as is consistent with the federal social security act. Each political subdivision to which old-age and survivors insurance is extended pursuant to this paragraph shall have the option, within a reasonable period of time fixed by the director and prior to participation by such political subdivision in New York state employees' retirement system, to file a certificate with the director excluding from coverage classes of employment as authorized by paragraph b of subdivision two of section one hundred thirty-six of this article.

11. Where the agreement with the federal secretary is modified, each political subdivision affected thereby shall be obligated under this article as if the modification had been made on the basis of its application to and agreement with the director that it be so modified.

12. Where the director modifies the agreement with the federal

secretary to provide for old-age and survivors insurance coverage to employees of the state or of a political subdivision in addition to their coverage by a retirement system or plan, such action shall, as of the effective date of coverage, be deemed to restore the eligibility for membership in such system or plan of employees in positions in the employ of the state or the political subdivision, as the case may be, who theretofore were eligible for membership therein, but whose positions were excluded from eligibility therein in order that old-age and survivors insurance coverage could be extended to them.

13. A retirement system or plan, for the purposes of this article, shall be deemed to constitute a separate retirement system with respect to the positions covered thereby for which a separate referendum is authorized herein. Each retirement system or plan shall be divided into two parts, one of which shall be composed of positions of members of such system who desire old-age and survivors insurance coverage on the basis of their service in such positions and the other to be composed of positions of the members who do not desire such coverage. Each such part shall be deemed a separate retirement system for the purposes of the referenda provided for in this article. Positions of persons who become members of a retirement system or plan after old-age and survivors insurance shall have been extended shall be included in the part composed of members desiring such coverage.

14. Notwithstanding the provisions of section one hundred forty-three of this article, the costs of each referendum conducted hereunder shall be paid as an administrative expense by the retirement system or plan among whose members the referendum is conducted. The governor or state officer or agency designated by him shall have power to require each such system or plan to pay the costs so incurred.

15. Where the compensation of any person whose position is covered by old-age and survivors insurance pursuant to this article is paid from a special or administrative fund provided for by law other than an income fund of the state university or the mental hygiene services fund, the contributions required to be paid by his employer for such coverage, including a proportionate share of the costs of administration charged

to such employer pursuant to section one hundred thirty-nine of this article, shall be paid from such special or administrative fund.

16. Notwithstanding anything to the contrary contained in subdivision nine of this section, the director is hereby authorized, on behalf of the state, consistent with the provisions of the federal social security act, to modify the agreement with the federal secretary for the purpose of extending old age and survivors insurance coverage to positions of members of the division or part of a retirement system composed of members who do not desire coverage, if in the manner and before the date specified by the director, the individuals occupying such positions, file with him a written request therefor.

§ 138-b. Use of annuity contributions to pay old-age and survivors insurance contributions. 1. Where a retirement system or plan provides retirement allowances consisting of separate pensions and separate annuities, each member thereof whose position is also covered by old-age and survivors insurance pursuant to this article and each member thereof whose wages in a position entitling him to membership in such retirement system or plan are subject to the tax imposed by the federal insurance contribution act shall have the privilege, by written notice filed as prescribed by the head of such system or plan, of decreasing his annuity contribution to the system or plan by not to exceed the amounts required to pay his contributions for such old-age and survivors insurance coverage or by not to exceed the amounts required to pay the tax, if any, imposed upon him pursuant to the federal insurance contribution act, including, in each case, retroactive coverage where it is provided. Where and during such period of time that a member's rate of contribution is reduced because his employer contributes toward pensions-providing-for-increased-take-home-pay pursuant to section seventy-a of this chapter or a similar provision of law, the privilege provided by this section shall be available only to the extent of annuity contributions which the member is still required to make to the retirement system or plan.

2. No pension otherwise payable by such a retirement system or plan

shall be increased by reason of any such reduction in annuity contributions.

3. The head of each such system or plan shall have power, by rule and regulation, to prescribe terms and conditions for the exercise, withdrawal and re-exercise of such privilege. Such rules and regulations shall be in the best interests of such system or plan and of the affected employees and for the protection of the efficient operation and management of the system or plan.

§ 139. Costs of administration. 1. On and after April first, nineteen hundred fifty-five, the state and each political subdivision extending old-age and survivors insurance coverage to its employees shall contribute to the annual cost of administering the provisions of this article. The director, during the month of March, nineteen hundred fifty-six, and at the close of each fiscal year of the state thereafter, shall determine the pro rata share of such annual cost to be contributed by the state and by each political subdivision. Such share shall be determined on the basis of the ratio which contributions required to be made to the contribution fund by the state or such political subdivision, as the case may be, bear to the total amount of contributions required to be made to such fund during such fiscal year.

2. The director shall thereupon submit to the fiscal officer of each political subdivision a statement of the amount to be contributed by it pursuant to this section. Payment of the amount specified in such statement shall be made by each political subdivision within sixty days after the receipt thereof.

3. There shall be included in the budget estimate of the state agency furnished to the division of the budget an estimate of the amount necessary to meet the state's pro rata share of the cost of administering the provisions of this article during the current fiscal year.

4. Amounts received from political subdivisions pursuant to this

section and amounts appropriated by the legislature to meet the state's pro rata share of the costs of administering this article shall be used to reimburse the state purposes fund in the general fund for any advances made from such fund for the purpose of administering the provisions of this article.

§ 140. Recovery of delinquent payments. Amounts due from political subdivisions under sections one hundred thirty-eight and one hundred thirty-nine of this chapter and which are unpaid after the final date for their payment, may, at the request of the director and after written notice to the fiscal officer of the political subdivision liable therefor, be deducted, with interest, from any moneys payable by the state to such political subdivision, or such delinquent payments may be recovered, with interest, by an action as upon contract in a court of competent jurisdiction against such political subdivision. If the amount due from the political subdivision, with interest thereon, is unascertainable because of the failure of such subdivision to file one or more reports, any or all moneys payable by the state to such subdivision may be withheld until such report or reports are filed and the amount due, with interest, is paid directly by the political subdivision or as provided above. In the case of amounts due under sections one hundred thirty-four, one hundred thirty-five and one hundred thirty-eight of this chapter, such interest shall be computed at the rate established by the Federal Social Security Act. Such rate shall be applied on a per-diem basis based on the number of days from the final due date established for such payment by the Federal Social Security Act through and inclusive of the date such payment is credited to the account of the Secretary of the Treasury of the United States. In the case of amounts due under section one hundred thirty-nine of this chapter, interest shall be computed from the first day after the final date for payment at the rate of four per centum per annum.

§ 141. Contribution fund. 1. There is hereby established a special fund to be known as the social security contribution fund, which shall be administered in accordance with the provisions of this section and

the state finance law. Such fund shall consist of, and there shall be credited to such fund, all contributions due and payable under the provisions of sections one hundred thirty-four, one hundred thirty-five and one hundred thirty-eight of this chapter, including interest thereon, if any, and all other moneys received for such fund from any other source pursuant to law.

2. The fund shall be held separate and apart from any other funds of the state, and shall be used exclusively for payment of (a) amounts required to be paid to the secretary of the treasury of the United States pursuant to the agreement authorized by section one hundred thirty-three of this chapter, (b) refunds as provided for in sections one hundred thirty-four and one hundred thirty-eight of this chapter, (c) reimbursement to the state purposes fund in the general fund for expenses of administration, and (d) payments to the state and to political subdivisions of the state pursuant to subdivision four of this section. The comptroller may, in his discretion, invest and keep invested moneys in the fund in accordance with the provisions of section ninety-eight of the state finance law. Moneys of the fund shall be paid out of the state treasury on the certificate of the director (or of an officer or employee of the state agency designated by the director) and after audit by and upon the warrant of the comptroller.

3. Interest earned or capital gains realized on the deposit or investment of moneys in the contribution fund shall be used to reimburse the state purposes fund in the general fund for any advance made from such fund for the purpose of administering the provisions of this article. In the absence of any such advance, or in the event all such advances shall have been repaid, such interest or capital gains shall be credited to the contribution fund.

4. In the event the moneys in the fund on April first, nineteen hundred sixty-nine, or on the first day of any fiscal year thereafter, exceed by five hundred thousand dollars or more the payment required to be made during that fiscal year, from the total moneys in the fund on that date, pursuant to items (a), (b), and (c) of subdivision two of this section, the director shall distribute such excess to the state and

to the political subdivisions of the state which have made contributions to the fund. The pro rata share of such excess to be paid to the state and to each political subdivision of the state shall be determined on the basis of the ratio which the timely contributions made to the fund by the state or by each political subdivision of the state during the preceding fiscal year bear to the total timely contributions made by the state and by all political subdivisions of the state during the same period.

5. Notwithstanding the provisions of subdivision four of this section, the director shall not be required to distribute any such excess until the statutory time limitation for political subdivisions to file wage adjustments for wages paid during nineteen hundred eighty-six, and all extensions thereof, have expired.

§ 143. Restriction on use of retirement or pension funds. No moneys belonging to any public administered and operated retirement or pension system or plan shall be appropriated or used for any purpose, or for any payment, authorized or required by this article.

§ 144. Regulations. The director shall prescribe such regulations as may be required for the effective administration of the provisions of this article.

§ 145. Limitations on obligations. Old-age and survivors insurance coverage provided pursuant to this article shall not constitute membership in a pension or retirement system of the state or of a political subdivision thereof, nor shall such coverage create a contractual relationship between the state or a political subdivision thereof, and any employee.

§ 146. References in laws and documents. Reference in any general, special or local law, rule, regulation or public document to an existing

section, subdivision or other provision of article six of the civil service law, as in force immediately prior to July first, nineteen hundred fifty-six, shall be deemed and construed to refer to the corresponding section, subdivision or other provision of this article as amended by this act, or as amended or supplemented thereafter.

§ 147. Separability clause. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this article directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE 3-A

REPORTING AND DISCLOSURE

Section 150. Short title.

151. Application.

152. Definitions.

153. Summary plan description.

154. Reporting of member's benefit rights.

155. Limitations.

§ 150. Short title. This article shall be known and may be cited as the "New York state public retirement system reporting and disclosure act".

§ 151. Application. Notwithstanding any inconsistent provision of law, the provisions of this article shall apply to any public retirement system of the state and to any public employee pension plan administered by such system.

§ 152. Definitions. The following words and phrases, as used in this article, shall have the following meanings, unless a different meaning is plainly required by the context:

1. "Beneficiary" shall mean a person who is receiving a benefit from a public retirement system of the state or who has met all the conditions precedent for the actual receipt of a benefit from a public retirement system of the state, and the monies are due and owing to such person by the public retirement system of the state.

2. "Retired member" shall mean a person who is retired from and who is receiving a retirement allowance from a public retirement system of the state.

3. "Member" shall mean a member of any public retirement system of the state.

4. "Head of the retirement system" shall mean the state comptroller, with respect to the New York state and local employees' retirement system and the New York state and local police and fire retirement system, and the retirement board of the other public retirement systems of the state.

5. "Public employee pension plan" shall mean any plan, fund, or program which was heretofore or is hereafter established or maintained, in whole or in part, by a public employer of the state, as the term public employer is defined in article fourteen of the civil service law, and administered by a public retirement system of the state, which provides retirement income to employees or their beneficiaries.

6. "Public retirement system of the state" shall mean the New York state and local employees' retirement system, New York state and local police and fire retirement system, New York state teachers' retirement system, New York city employees' retirement system, New York city teachers' retirement system, New York city police pension fund, New York city fire department pension fund and the New York city board of education retirement system.

7. "Total accumulated plan benefits" shall mean an interest obtained by a member in that part of a public employee pension plan which arises from the member's continued service for a public employer based on service to date.

8. "Vested pension benefit" shall mean an interest obtained by a member in that part of a public employee pension plan which arises from the member's continued service for a public employer and which would not be forfeited under the terms and provisions of the plan if the member were to terminate employment.

§ 153. Summary plan description. 1. The head of each public retirement system shall prepare and publish a summary plan description of any public employee pension plan which is administered or maintained by such system and of any material modification or change in the terms of such plan. The summary plan description shall include the information required under subdivision two of this section. The summary plan description, a summary of any material modifications in the terms of the plan, and any other changes in the information required under this section shall be furnished to members in the manner and to the extent provided in subdivision three of this section. The summary plan description and any other summary descriptions required by this article (including updates of summary plans and information concerning changes and modifications) shall be written in a manner calculated to be understood by the average member and shall be sufficiently accurate and comprehensive to reasonably apprise such members of their rights and obligations under the plan.

2. The summary plan description shall contain the following information, and shall be updated at regular intervals to incorporate any changes in such information:

(a) the name and address of the head of the public retirement system which administers such plan;

(b) the plan's requirements with respect to eligibility for participation or membership and benefits;

(c) the plan's requirements with respect to vesting of pension benefits;

(d) the circumstances which may result in disqualification, forfeiture, ineligibility, or denial or loss of benefits;

(e) the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims for benefits which are denied in whole or in part.

3. The head of each public retirement system shall, in a manner to be determined by the head of such retirement system, furnish to each member a copy of the summary plan description required by this section, including all modifications and changes thereto, within one year of the time the individual is registered as a member. If there is a material modification or change, the head of the retirement system shall, in a manner to be determined by the head of such retirement system, furnish a summary description of such modification or change to each member or beneficiary whose rights or benefits may reasonably be expected to be affected thereby and to each retired member whose rights or benefits may reasonably be expected to be affected thereby. Provided, however, that where such modification or change requires members, retired members, or their beneficiaries to make a selection or file an application by a certain date, such summary description shall be furnished to the affected members, retired members, or their beneficiaries not later than sixty days before the final date for making such selection or filing such application, unless such notice is impracticable under the terms of such modification or change.

§ 154. Reporting of member's benefit rights. 1. The head of the retirement system shall furnish annually to any member of a plan a statement indicating, on the basis of currently available information:

(a) the total accumulated plan benefits or the amount payable;

(b) the extent to which benefits are vested pension benefits;

(c) the contributions made by the member, plus interest, if any; and

(d) the name of the person designated by such member to receive a benefit upon the member's death.

2. The head of the retirement system shall, in a manner to be determined by the head of such retirement system, furnish to any member or beneficiary who requests the withdrawal of contributions made by the member, the payment of any benefit from the plan, or, in accordance with the provisions of the plan, an election as to the form of benefits to be made under the provisions of the plan (including an election of options, as the term options is defined in the relevant provisions of this chapter, the education law, or the administrative code of the city of New York), a written explanation of the effect of such withdrawal, payment, or election on the plan benefits of the member or beneficiary. Such explanation shall include a description of the various alternative forms of benefit payments, if any, which the participant may elect, and, to the extent practicable, shall be furnished to such member or beneficiary at least thirty days prior to the effective date of such withdrawal, payment, or election.

§ 155. Limitations. Nothing contained in this article requiring reporting and disclosure shall be construed to create, revive, extend, or otherwise affect the entitlement of a member, retired member, or a beneficiary to any retirement benefit.

ARTICLE 3-B

PENSION FORFEITURE FOR PUBLIC OFFICIALS

Section 156. Definitions.

157. Pension forfeiture.

158. Pension contributions returned.

159. Miscellaneous.

§ 156. Definitions. The following words and phrases, as used in this article, shall have the following meanings, unless a different meaning is plainly required by the context:

1. "Crime related to public office" shall mean any of the following criminal offenses whether committed in this state or in any other

jurisdiction by a public official through the use of his or her public office or by the individual representing that he or she was acting with the authority of any governmental entity, and acting as a public official:

(a) a felony for committing, aiding or abetting a larceny of public funds from the state or a municipality;

(b) a felony committed in direct connection with service as a public official; or

(c) a felony committed by such person who, with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain or advantage for himself or herself or for some other person, through the use or attempted use of the power, rights, privileges or duties of his or her position as a public official.

2. "Chief administrator of the retirement system" shall mean the comptroller of the state of New York with respect to the New York state and local employees' retirement system and the boards of trustees with respect to the other public retirement systems and pension funds of the state and the city of New York.

3. "Defendant" shall mean a state or local officer against whom a forfeiture action is commenced.

4. "Dependent person" shall mean and include:

(a) any child of a public official or other person for whom such person is legally responsible to provide support;

(b) any present or former spouse or domestic partner of a public official;

(c) any family or household member of a public official, regardless of such person's age, where such person has a disability, as defined in subdivision twenty-one of section two hundred ninety-two of the executive law; and

(d) any person to whom a public official has provided support.

5. "Pension" shall mean the annual allowance for life, payable in monthly installments, derived from contributions made by a public official to the appropriate pension accumulation fund of a retirement

system pursuant to applicable law.

6. (a) "Public official" shall mean any of the following individuals:

(i) the governor, lieutenant governor, comptroller or attorney general;

(ii) members of the state legislature;

(iii) state officers and employees including:

(A) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;

(B) officers and employees of statewide elected officials;

(C) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies; and

(D) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, and employees of such authorities, corporations and commissions;

(iv) judges, justices and employees of the unified court system;

(v) officers and employees of the legislature; and

(vi) paid municipal officers and employees including an officer or employee of a municipality, paid members of any administrative board, commission or other agency thereof and in the case of a county, shall be deemed to also include any officer or employee paid from county funds.

(b) A person who receives no compensation or is compensated on a per diem basis for his or her duties as a public official shall not be deemed a public official pursuant to this subdivision.

7. "Retirement system" shall mean the New York state and local employees' retirement system, and the New York city employees' retirement system.

§ 157. Pension forfeiture. 1. Notwithstanding any other law to the contrary, it shall be a term and condition of membership for every public official that such public official's rights to a pension in a retirement system that accrue in such retirement system after his or her

date of initial membership in the retirement system shall be subject to the provisions of this article.

2. In the case of a public official who stands convicted, by plea of nolo contendere or plea of guilty to, or by conviction after trial, of any crime related to public office, and has been sentenced, an action may be commenced in supreme court of the county in which such public official was convicted of such felony crime, by the district attorney having jurisdiction over such crime, or by the attorney general if the attorney general brought the criminal charge which resulted in such conviction, for an order to reduce or revoke the pension to which such public official is otherwise entitled for service as a public official. Such complaint shall specify with particularity which category of felony pursuant to subdivision one of section one hundred fifty-six of this article the defendant has committed, and all other facts that are alleged to qualify such crime as a felony crime related to public office subject to pension reduction or revocation pursuant to this article, and the amount of pension reduction or revocation requested. Such action shall be commenced within six months after such sentencing.

3. Before commencing an action described in subdivision two of this section, the district attorney or the attorney general, as the case may be, shall serve written notice on the chief administrator of the defendant's retirement system stating that he or she has reason to believe that the person convicted committed the crime related to public office in the performance of or failure to perform the public official's duties and responsibilities. Such notice shall specify with particularity which category of felony pursuant to subdivision one of section one hundred fifty-six of this article the defendant has committed. Within twenty days after receipt of such notice, the chief administrator of the defendant's retirement system shall submit a notice of applicability to the district attorney or the attorney general as the case may be. The notice of applicability shall contain a statement specifying whether the person convicted is or has been a member or retired member of a retirement system and shall describe the portion of such rights and benefits to which such person is or will be entitled to solely from service as such a public official.

4. No forfeiture action may be commenced by the district attorney or the attorney general until such district attorney or the attorney general, as the case may be, has received and served on the defendant the notice of applicability as set forth in subdivision three of this section.

5. The district attorney or the attorney general, or any interested party, may seek, or the court on its own motion may order, that some or all of the pension that would otherwise be reduced or revoked pursuant to this article be paid for the benefit of any dependent persons, as may be in the interests of justice.

6. The defendant shall have the right to a hearing.

7. The burden of proof shall be upon the district attorney or the attorney general, as the case may be, to prove by clear and convincing evidence the facts necessary to establish a claim of pension forfeiture. The district attorney or the attorney general as the case may be must, at the time of the hearing, prove by clear and convincing evidence that the defendant knowingly and intentionally committed the crime related to public office.

8. In determining whether the pension shall be reduced or revoked, the supreme court shall consider and make findings of fact and conclusions of law that include, but shall not be limited to, a consideration of the following factors:

(a) Whether the defendant stands convicted of such a felony of a crime related to public office, and the specific paragraph or paragraphs of subdivision one of section one hundred fifty-six of this article that have been proven or not proven;

(b) The severity of the crime related to public office of which the defendant stands convicted;

(c) The amount of monetary loss suffered by such state or municipality as a result of such crime related to public office;

(d) The degree of public trust reposed in the public official by virtue of the person's position as a public official;

- (e) If the crime related to public office was part of a fraudulent scheme against the state or a municipality, the role of the public official in such fraudulent scheme against such state or a municipality;
- (f) The defendant's criminal history, if any;
- (g) The impact of forfeiture, in whole or in part, on defendant's dependents, present or former spouses, or domestic partners;
- (h) The proportionality of forfeiture of all or part of the pension to the crime committed;
- (i) The years of service in public office by the defendant where no criminal activity has been found by a court; and
- (j) Any such other factors as, in the judgment of the supreme court, justice may require.

9. At any time during the pendency of a forfeiture action, the court may dismiss the action if it finds that such relief is warranted by the existence of some compelling factor, consideration or circumstance or other information or evidence which demonstrates that forfeiture would not serve the ends of justice. The court may order that some or all of the reduced or revoked pension be paid to satisfy the terms of any existing order for the payment of maintenance, child support or restitution or for the benefit of any dependent persons, as may be in the interests of justice, after taking into consideration the financial needs and resources available for support of such persons.

10. (a) Upon a finding by the court by clear and convincing evidence that the defendant knowingly and intentionally committed a crime related to public office, the court may issue an order to the appropriate retirement system to reduce or revoke the defendant's pension to which he or she is otherwise entitled as such a public official. All orders and findings made by the court pursuant to this section shall be served by the attorney general or the district attorney, as the case may be upon the chief administrator of the defendant's retirement system and the defendant.

(b) If the court issues an order pursuant to paragraph (a) of this subdivision, the court shall order payment of a portion of such pension benefit to: (1) the innocent spouse if so requested by such spouse payable at the time the public official would have been eligible for

retirement if such spouse has not otherwise waived, in writing, his or her right to such benefit; and (2) innocent minor children and other dependents pursuant to law of the public official in an amount that the court finds just and proper consistent with the pension benefits to which the public official would be entitled and the portion of those benefits which would be used for the support of such minor children or dependents pursuant to law. Such payment to the innocent spouse shall be computed pursuant to paragraph (c) of this subdivision, and payments pursuant to subparagraphs one and two of this paragraph shall be adjusted to reflect interest accrued between the time of such conviction and the time of such payment.

(c) When determining the amount of benefits which the defendant's innocent spouse is entitled to receive, the factors contained in paragraph d of subdivision five of part B of section two hundred thirty-six of the domestic relations law shall be considered by the court. However, when determining such apportionment, the court shall not annul or modify any prior court order regarding such benefits.

11. The court shall issue a written decision including findings of fact and conclusions of law that are the basis for any order issued pursuant to this section.

12. Upon a final determination that reverses or vacates the conviction or convictions of a crime related to public office, or reduces such crime to a violation, misdemeanor or other criminal act that is not a crime related to public office, the public official, or if he or she shall be deceased, his or her estate, shall have such pension retroactively restored upon application to the court with jurisdiction over the forfeiture action. Such court, upon finding that such a final determination has occurred, shall issue an order retroactively restoring such pension, together with such other relief deemed appropriate.

13. A final judgment entered pursuant to this article may be appealed pursuant to subdivision (a) of section fifty-seven hundred one and section fifty-six hundred two of the civil practice law and rules.

14. Except as otherwise provided by this article, the civil practice

law and rules shall govern the procedure in all actions commenced pursuant to this article, except where the action is specifically regulated by any inconsistent provisions herein.

§ 158. Pension contributions returned. 1. Any public official whose pension is reduced or revoked pursuant to this article shall be entitled to a return of his or her contribution paid into the relevant retirement system, without interest.

2. Notwithstanding the provisions of subdivision one of this section, no payments in return of contributions shall be made or ordered unless and until the supreme court determines that the public official whose pension has been reduced or revoked has satisfied in full any judgments or orders rendered by any court of competent jurisdiction for the payment of restitution to the state or a municipality for losses incurred as a result of such crime related to public office. If the supreme court determines that such public official whose pension is to be reduced or revoked has failed to satisfy any outstanding judgment or order of restitution rendered by a court of competent jurisdiction, it may order that any funds otherwise due to such public official as a return of contribution, or any portion thereof, be paid in satisfaction of such judgment or order.

§ 159. Miscellaneous. The remedies provided for in this article are not intended to substitute for, limit or supersede the lawful authority of any public officer, agency or other person to enforce any other right or remedy provided for by law.

ARTICLE 4

SUPPLEMENTAL PENSION ACT

Section 160. Short title of article.

161. Definitions.

162. Retired employees and certain widows and dependents eligible for supplemental pensions.

- 163. Computation of supplemental pensions.
- 164. Payment of supplemental pensions.
- 165. Rules and regulations.
- 166. Information to be furnished to comptroller.
- 167. Supplemental pension fund.
- 168. Reimbursement for payments to state retired teachers.
- 169. Reimbursement by participating employers for payments to certain state retired employees.
- 170. Reimbursement of supplemental pension fund by the state.
- 171. Restriction on use of retirement or pension funds.
- 172. Effect of unconstitutionality in part.
- 173. References in laws and documents.

§ 160. Short title of article. This article shall be known and may be cited as the "Supplemental Pension Act".

§ 161. Definitions. As used in this article: 1. The term "state retired employee" shall mean a person who shall have retired prior to July first, nineteen hundred sixty-one, and receives as a result of such retirement, a retirement allowance or pension from any state administered and operated retirement or pension plan or system, which retirement allowance or pension, computed without optional modification, is or would be twelve hundred dollars per annum or less, and who, unless retired for disability, (a) is sixty years of age or over and (b) has had not less than fifteen years of allowable and credited service on which his retirement allowance or pension is based, provided, however, that

(1) in the case of such a person meeting such requirements who attained age sixty-five before April first, nineteen hundred fifty-six, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum beginning with the month of April, nineteen hundred fifty-six, if he is then sixty-five years of age or beginning with the month thereafter during which he attains age sixty-five;

(2) in the case of a female person meeting such requirements who attained age sixty-two before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum beginning with the month of April, nineteen hundred fifty-seven, if she is then sixty-two years of age or beginning with the month thereafter during which she attains age sixty-two;

(3) in the case of a person retired for disability, either before or after attaining age fifty, who attained such age before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum beginning with the month of April, nineteen hundred fifty-seven, if he is then fifty years of age or beginning with the month thereafter during which he attains age fifty.

2. The term "local retired employee" shall mean a person who shall have retired prior to July first, nineteen hundred sixty-one, and receives as a result of such retirement, a retirement allowance or pension from any retirement or pension system or plan of a municipality, which retirement allowance or pension, computed without optional modification, is or would be twelve hundred dollars per annum or less, and who, unless retired for disability, (a) is sixty years of age or over and (b) has had not less than fifteen years of allowable and credited service on which his retirement allowance or pension is based, provided, however, that

(1) in the case of such a person meeting such requirements who attained age sixty-five before April first, nineteen hundred fifty-six, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum in the event a local law, ordinance or resolution is adopted pursuant to paragraph b of subdivision two of section one hundred sixty-three of this act, beginning with the month when such local law, ordinance or resolution shall become effective, if such person is then sixty-five years of age or beginning with the month thereafter during which he

attains age sixty-five;

(2) in the case of a female person meeting such requirements who attained age sixty-two before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum in the event a local law, ordinance or resolution is adopted pursuant to paragraph b of subdivision two of section one hundred sixty-three of this act, beginning with the month when such local law, ordinance or resolution shall become effective, if she is then sixty-two years of age or beginning with the month thereafter during which she attains age sixty-two;

(3) in the case of a person retired for disability, either before or after attaining age fifty, who attained such age before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum in the event a local law, ordinance or resolution is adopted pursuant to paragraph b of subdivision two of section one hundred sixty-three of this act, beginning with the month when such local law, ordinance or resolution shall become effective, if he is then fifty years of age or beginning with the month thereafter during which he attains age fifty.

3. The term "state retired teacher" shall mean a person who shall have retired prior to July first, nineteen hundred sixty-one, and receives a retirement allowance from the New York state teachers' retirement system, which retirement allowance, computed without optional modification, including any modification due to additional contributions as authorized by subdivision three of section five hundred sixteen of the education law, is or would be twenty-four hundred dollars per annum or less and who, unless retired for disability, has been credited with not less than twenty-five years of service, at least fifteen of which shall have been service within the state.

4. The term "local retired teacher" shall mean a person who shall have retired prior to July first, nineteen hundred sixty-one, and receives as

a result of such retirement, a retirement allowance from any teachers' retirement system administered and operated by a municipality or a school district located therein, which retirement allowance, computed without optional modification, is or would be twelve hundred dollars per annum or less, or as hereinafter provided thirteen hundred and two or eighteen hundred dollars per annum or less, as the case may be, and who, unless retired for disability, has had not less than fifteen years of allowable and credited service on which his retirement allowance is based, provided, however, that

(1) In the case of such a person meeting such requirements who attained age sixty-five before April first, nineteen hundred fifty-six, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum in the event a local law, ordinance or resolution is adopted pursuant to subdivision five of section one hundred sixty-three of this act, beginning with the month when such local law, ordinance or resolution shall become effective, if such person is then sixty-five years of age or beginning with the month thereafter during which he attains age sixty-five;

(2) in the case of a female person meeting such requirements who attained age sixty-two before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum in the event a local law, ordinance or resolution is adopted pursuant to paragraph b of subdivision two of section one hundred sixty-three of this act, beginning with the month when such local law, ordinance or resolution shall become effective, if she is then sixty-two years of age or beginning with the month thereafter during which she attains age sixty-two;

(3) in the case of a person retired for disability, either before or after attaining age fifty, who attained such age before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, the maximum retirement allowance or pension, computed without optional modification, shall for the purposes hereof be thirteen hundred and two dollars per annum in the event a local law, ordinance or

resolution is adopted pursuant to paragraph b of subdivision two of section one hundred sixty-three of this act, beginning with the month when such local law, ordinance or resolution shall become effective, if he is then fifty years of age or beginning with the month thereafter during which he attains age fifty;

(4) in the case where a local law, ordinance or resolution authorizing additional supplemental pension payments pursuant to subdivision six of section one hundred sixty-three of this act is adopted effective on or after April first, nineteen hundred fifty-eight, such term shall for the purposes hereof refer to such a person entitled to receive a monthly supplemental pension in an amount which when added to his monthly retirement allowance or pension, computed without optional modification, shall be equal to one hundred fifty dollars.

5. The term "municipality" shall mean a county, city, town or village.

6. The term "comptroller" shall mean the state comptroller.

§ 162. Retired employees and certain widows and dependents eligible for supplemental pensions. 1. State retired employees and state retired teachers shall be entitled to receive, one month after such retirement, monthly supplemental pension payments as provided in this article.

2. Any municipality is hereby authorized and empowered to adopt and amend a local law, ordinance or resolution providing for monthly supplemental pension payments both to local retired employees thereof and local retired teachers of a school district located therein. Any county, city, town or village is hereby authorized and empowered to adopt and amend local laws, ordinances and resolutions, effective for specified periods of not to exceed three years each, subject to extension or renewal for specified periods of not to exceed three years each, to provide for monthly supplemental pension payments for widows, dependent children or dependent parents of deceased members or deceased retired members of the uniformed force of a police department or fire department. Any such local law, ordinance or resolution shall prescribe equitable methods for providing supplemental pensions and computing the

amounts thereof and may contain provisions necessary and appropriate for proper administration, including a provision requiring the filing of verified applications for such payments.

3. The monthly supplemental pensions paid to local retired employees shall not exceed the monthly supplemental pensions paid to state retired employees pursuant to this article. The monthly supplemental pensions paid to local retired teachers shall not exceed the monthly supplemental pensions paid to state retired teachers pursuant to this article. The total of all the annual retirement allowances or pension payments to the widow or widower, dependent children and dependent parents of a deceased member or deceased retired member of the uniformed force of a police department or a fire department shall not be increased by more than an amount which, when added to all annual retirement allowances and pension payments being made to all of such beneficiaries, and the annual retirement allowances or pension payments which could have been made to them in lieu of any lump sum settlement that was made instead, on account of the death of any such police officer or firefighter, by such county, city, town or village, or by a retirement or pension system or plan on behalf of the county, city, town or village, shall not exceed a total of twelve hundred dollars per annum.

4. As used herein the following terms shall include:

(a) "Widow". Only the widow, who has not remarried, of a deceased member or deceased retired member of the uniformed force of a police or fire department;

(b) "Dependent children". Only children under the age of eighteen of a deceased member or deceased retired member of the uniformed force of a police or fire department;

(c) "Dependent parents". Only a father or mother, or both collectively if both are living, of the deceased member or deceased retired member of the uniformed force of a police or fire department, where neither dependent widow nor dependent children under age eighteen survive such member or retired member.

§ 163. Computation of supplemental pensions. 1. The monthly

supplemental pension to be paid to a state retired employee shall be computed by

(a) multiplying by forty (or forty-three and two-fifths in a case where a retired employee may under this act receive a maximum retirement allowance or pension, computed without optional modification, of thirteen hundred and two dollars) the number of years, not exceeding thirty, of allowable and credited service on which his retirement allowance or pension is based,

(b) subtracting therefrom the amount of his annual retirement allowance or pension, computed without optional modification, and

(c) dividing the results so obtained by twelve.

2. In no event shall the monthly supplemental pension paid to a state retired employee exceed

(a) twenty-five dollars, or thirty-three dollars and fifty cents in any case where the maximum under paragraph (b) of this subdivision is one hundred eight dollars and fifty cents, or

(b) an amount which, when added to an amount equal to one-twelfth of his annual retirement allowance or pension, computed without optional modification, exceeds

(1) the sum of one hundred dollars, or

(2) one hundred eight dollars and fifty cents, in the case of a state retired employee who attained age sixty-five before April first, nineteen hundred fifty-six, or who attains such age on or after such date, beginning with the month of April nineteen hundred fifty-six, if he is then sixty-five years of age or beginning with the month thereafter during which he attains age sixty-five, or who is a female person who attained age sixty-two before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, beginning with the month of April nineteen hundred fifty-seven, if she is then sixty-two years of age or beginning with the month thereafter during which she attains age sixty-two, or is retired for disability, either before or after attaining age fifty, and who attained such age before April first, nineteen hundred fifty-seven, or who attains such age on or after such date, beginning with the month of April nineteen hundred fifty-seven, if he is then fifty years of age or beginning with the month thereafter during which he attains age fifty, or

(3) one hundred eight dollars and fifty cents, in the case of a local retired employee, where the municipality shall have provided by local law, ordinance or resolution for payments up to such sum for local retired employees who attained age sixty-five before April first, nineteen hundred fifty-six, or who attain such age on or after such date, beginning with the month when such local law, ordinance or resolution shall become effective, if such local retired employee is then sixty-five years of age or beginning with the month thereafter during which he attains age sixty-five, or who are female persons who attained age sixty-two before April first, nineteen hundred fifty-seven, or who attain such age on or after such date, beginning with the month when such local law, ordinance or resolution shall become effective, if such local retired employee is then sixty-two years of age or beginning with the month thereafter during which she attains age sixty-two, or who are retired for disability, either before or after attaining age fifty, and who attained age fifty before April first, nineteen hundred fifty-seven, or who attain such age on or after such date, beginning with the month when such local law, ordinance or resolution shall become effective, if such local retired employee is then fifty years of age or beginning with the month thereafter during which she attains age fifty.

3. Except as otherwise provided by or pursuant to subdivision five or subdivision six of this section, the monthly supplemental pension to be paid to a state retired teacher shall be twenty-five dollars plus the amount, if any, by which one-twelfth of his annual retirement allowance, computed without optional modification, is less than fifty dollars. In no event shall the monthly supplemental pension paid to a state retired teacher exceed an amount which, when added to an amount equal to one-twelfth of his annual retirement allowance, computed without optional modification, exceeds the sum of one hundred dollars.

4. For the purposes of this section, in determining the number of years of allowable and credited service, a major fraction of a year shall be counted as a full year.

5. Notwithstanding any other provision of this act but except as otherwise provided by or pursuant to subdivision six and subdivision

seven of this section, any state retired teacher who

(a) attained age sixty-five before April first, nineteen hundred fifty-six, or who attains such age on or after such date and who is receiving or is entitled to receive a supplemental pension pursuant to this act on or after such date shall, beginning with the month of April, nineteen hundred fifty-six, if he is then sixty-five years of age or beginning with the month thereafter during which he attains age sixty-five, or

(b) is a female person who attained age sixty-two before April first, nineteen hundred fifty-seven, or who attains such age on or after such date and who is receiving or entitled to receive a supplemental pension pursuant to this act on or after such date shall, beginning with the month of April, nineteen hundred fifty-seven, if she is then sixty-two years of age or beginning with the month thereafter during which she attains age sixty-two, or

(c) is retired for disability, either before or after attaining age fifty, and who attained such age before April first, nineteen hundred fifty-seven, or who attains such age on or after such date and who is receiving or entitled to receive a supplemental pension pursuant to this act on or after such date shall, beginning with the month of April, nineteen hundred fifty-seven, if he is then fifty years of age or beginning with the month thereafter during which he attains age fifty, receive a monthly supplemental pension in an amount which when added to his monthly retirement allowance or pension, computed without optional modification, including any modification due to additional contributions as authorized by subdivision three of section five hundred sixteen of the education law shall be equal to one hundred eight dollars and fifty cents; provided, however, that this subdivision shall not become operative in the case of a local retired teacher unless and until a local law, ordinance or resolution authorizing such additional supplemental pension payments for such a person or persons shall have become effective.

receive a monthly supplemental pension in an amount which when added to his monthly retirement allowance or pension, computed without optional modification, shall be equal to one hundred eight dollars and fifty cents; provided, however, that this subdivision shall not become operative in the case of a local retired teacher unless and until a

local law, ordinance or resolution authorizing such additional supplemental pension payments for such a person or persons shall have become effective.

6. Notwithstanding any other provision of this act except as otherwise provided by or pursuant to subdivision seven of this section, (a) a state retired teacher, having retired prior to July first, nineteen hundred sixty-one, who is not receiving the primary benefit obtained under the federal old-age, survivors, and disability insurance system, shall receive, beginning with the month of September, nineteen hundred sixty-five, a monthly supplemental pension in an amount which when added to his monthly retirement allowance or pension, computed without optional modification, shall be equal to two hundred dollars and beginning with the month of September, nineteen hundred seventy, a monthly supplemental pension in an amount which, when added to his monthly retirement allowance or pension, computed without optional modification, shall be equal to two hundred twenty-five dollars, or (b) a state retired teacher, having retired prior to July first, nineteen hundred sixty-one, who is receiving the primary benefit obtained under the federal old-age, survivors, and disability insurance system, shall receive, beginning with the month of April, nineteen hundred sixty-five, a monthly supplemental pension in an amount which, when added to his monthly retirement allowance or pension, without optional modification, shall be equal to one hundred seventy-five dollars; provided, however, that this subdivision shall not become operative in the case of a local retired teacher unless and until a local law, ordinance or resolution authorizing such additional supplemental pension payments for such a person or persons shall have become effective, and further provided that nothing herein contained shall be construed to reduce any pension or retirement allowance, or supplemental pension being received by any retired teacher prior to April first, nineteen hundred sixty-five. As used in this subdivision the term "optional modification" includes modification due to additional contributions authorized by subdivision three of section five hundred sixteen of the education law.

7. For persons retiring after June thirtieth, nineteen hundred sixty and prior to the effective date of this chapter, and who are otherwise

eligible for supplementation under provisions of this act, a retroactive payment for supplemental pensions shall be made, as if chapter one thousand forty of the laws of nineteen hundred sixty had not been enacted, covering the period between the date of retirement and the effective date of this chapter.

§ 164. Payment of supplemental pensions. On or before the last day of each month, there shall be paid to each state retired employee and state retired teacher, from the supplemental pension fund, the monthly supplemental pension payment to which he may be entitled under the provisions of this article.

§ 165. Rules and regulations. The comptroller shall prescribe such rules and regulations as may be required for the effective administration of the provisions of this article relating to supplemental pension payments to state retired teachers and state retired employees.

§ 166. Information to be furnished to comptroller. The comptroller shall have authority to require any department or agency of the state to furnish him with such records, information and data as he may need to carry out the provisions of this article.

§ 167. Supplemental pension fund. 1. There is hereby established a special fund to be known as the supplemental pension fund. Such fund shall consist of such moneys as may be appropriated thereto by the legislature, and all other moneys received for such fund from any other source pursuant to law.

2. Subject to the provisions of the state finance law, the supplemental pension fund shall be under the jurisdiction and control of the comptroller, who shall be the custodian thereof. The fund shall be held separate and apart from any other funds or moneys of the state and

shall be used exclusively for the purpose of making supplemental pension payments to state retired employees and state retired teachers. The comptroller shall have power to invest and keep invested moneys in the fund in accordance with the provisions of section ninety-eight of the state finance law. Moneys of the fund shall be paid out only after audit by and on warrant of the comptroller.

§ 168. Reimbursement for payments to state retired teachers. As soon as practicable after the close of each fiscal year of the state, the comptroller shall certify to the commissioner of education a statement of the total amount paid out by him during such fiscal year to state retired teachers pursuant to this article. Such amount shall be apportioned on the same basis and collected in the same manner as is provided for the collection of employers' contributions to the New York state teachers' retirement system by subdivision two of section five hundred twenty-one of the education law. Amounts so collected shall be deposited in and credited to the supplemental pension fund.

§ 169. Reimbursement by participating employers for payments to certain state retired employees. 1. Each participating employer of the New York state employees' retirement system, as defined in subdivision twenty of section two of this chapter, shall contribute to the cost of providing supplemental pension payments to those state retired employees who retire from service with such participating employers in the manner provided in this section.

2. As soon as practicable after the close of each fiscal year of the state, the comptroller shall determine the pro rata share of the cost of providing such supplemental pension payments during such fiscal year to be contributed by each such participating employer. Such pro rata share shall be determined on the basis of the ratio which the total annual compensation paid to members of the New York state employees' retirement system by each such participating employer as of the close of the fiscal year preceding such fiscal year, bears to the total amount of annual compensation paid to members of such system by all such participating

employers as of such date.

3. The comptroller thereupon shall submit to the fiscal officer of each such participating employer a statement of the amount to be contributed by it pursuant to this section. Payment of the amount specified in the comptroller's statement shall be made by such a participating employer within sixty days after the receipt thereof. If payment of the full amount of such obligation is not made within sixty days after the receipt of such statement, interest at the rate of four per centum per annum shall commence to run against the unpaid balance thereof on the first day after such sixtieth day. While any such sum shall remain due and unpaid the comptroller may refuse to audit any claim for funds due to such participating employer from the state.

4. All amounts received by the comptroller from such participating employers pursuant to this section shall be deposited in and credited to the supplemental pension fund.

§ 170. Reimbursement of supplemental pension fund by the state. The comptroller shall include with his budget estimate furnished to the governor for each fiscal year amounts estimated by him to be sufficient to reimburse the supplemental pension fund for: (a) the cost of providing supplemental pension payments during the current fiscal year to all state retired employees, except those who retired from service with a participating employer of the New York state employees' retirement system, as defined by subdivision twenty of section two of this chapter; and (b) the state's pro rata share of the cost of providing supplemental pension payments during the current fiscal year to state retired teachers, such pro rata share to be determined as provided in section one hundred sixty-eight of this article. The commissioner of education shall furnish the comptroller with such information and data as the comptroller may need to prepare such estimate.

§ 171. Restriction on use of retirement or pension funds. No moneys

belonging to any publicly administered and operated retirement or pension system or plan shall be appropriated or used for any purpose, or for any payment, authorized or required by this article.

§ 172. Effect of unconstitutionality in part. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 173. References in laws and documents. Reference in any general, special or local law, rule, regulation or public document to an existing section, subdivision or other provision of the supplemental pension act, as in force immediately prior to July first, nineteen hundred fifty-six, shall be deemed and construed to refer to the corresponding section, subdivision or other provision of this article as amended by this act, or as amended or supplemented thereafter.

ARTICLE 4-A

INVESTMENTS OF PUBLIC PENSION FUNDS

Section 176. Definitions.

177. Eligible investments.

177-a. Investment in certain conventional mortgages.

177-c. Investment in mortgage pass-through certificates.

177-d. Security loan agreements.

178. Additional limitations on eligible investments.

178-a. Custody and nominee registration of stock and securities.

179. Investments in municipal assistance corporation obligations; indemnification.

179-a. Construction.

§ 176. Definitions. 1. The term "fund", as used in this article four-a, shall mean any public retirement system or pension fund which grants retirement or pension benefits to employees of the city of New York, employees of the state of New York, employees of any department or agency of the city of New York or the state of New York, and employees of any municipality or other participating employer participating in the New York state and local employees' retirement system or the New York state and local police and fire retirement system.

2. The term "conventional mortgage", as used in this article four-a, shall mean (a) any single bond and mortgage or note and mortgage constituting a first lien upon real estate (including leasehold estates), not insured by the federal housing administrator or any of his successors in office or guaranteed by the United States under the provisions of the national housing act, as amended or supplemented, (b) first mortgage bonds issued under an indenture of mortgage and deed of trust, constituting a first lien upon real estate (including leasehold estates), and issued to a corporate trustee authorized to act as such in this state and approved by the fund.

3. The term "insured mortgage", as used in this article four-a, shall mean any single bond and mortgage or note and mortgage constituting a first lien upon real estate (including leasehold estates), insured by the federal housing administrator or any of his successors in office and guaranteed by the United States under the provisions of the national housing act, as amended or supplemented.

4. The term "MWBE asset manager" shall mean an asset manager in any of the following asset classes: public equity or fixed income securities, hedge funds, fund of hedge funds, private equity (including venture capital), fund of private equity funds, real estate investment funds, fund of real estate funds, or any other asset class for which an applicable fiduciary-controlled entity engages external asset managers that is (a) a MWBE; and (b) a registered investment advisor or exempt from such registration and (c) certified pursuant to the provisions of subdivision three of section four hundred twenty-three-c of this chapter.

5. The term "minority group member" shall mean a United States citizen or permanent resident noncitizen who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the black African racial groups;

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

6. The term "MWBE" for the purpose of engaging in business with the fiduciary-controlled entities covered by this section, means a business enterprise, including without limitation, a sole proprietorship, partnership, limited partnership, limited liability partnership, limited liability company, corporation or other similar entity whether domestic or foreign, that is:

(a)(i) at least fifty-one percent owned by (A) one or more minority group members, or (B) one or more women, in each case, who have significant experience in asset management, brokerage, other financial services or related professional services such as accounting, valuation or legal services, or (ii) substantially owned and/or operated by women or minority group members who have significant experience in asset management, brokerage, other financial services or related professional services such as accounting, valuation or legal services;

(b) an enterprise in which such minority or women ownership or operation is real, substantial and continuing;

(c) an enterprise in which such minority or women ownership or operation has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state; and

(e) an enterprise certified by the state comptroller pursuant to section four hundred twenty-three-c of this chapter.

7. The term "MWBE financial institution" shall mean (a) as it relates to brokerage services, a registered broker dealer that is an MWBE certified pursuant to the provisions of subdivision three of section four hundred twenty-three-c of this chapter and (b) as it relates to any other financial services, an MWBE certified pursuant to the provisions of subdivision three of section four hundred twenty-three-c of this chapter that provides banking, financial advisory, insurance, financial research, valuation or other financial services.

8. The term "fiduciary-controlled entities" shall mean the common retirement fund, state teachers retirement fund, state insurance fund and state deferred compensation plan.

9. The term "best execution" shall refer to the obligation of an entity that purchases or sells publicly-traded securities to ensure the optimal mix of price improvement (getting a better price than is currently quoted), speed and likelihood of execution.

§ 177. Eligible investments. In addition to the powers contained in any other provision of law, including the provisions of the administrative code of the city of New York, the trustee or trustees of a fund shall have the power to invest the moneys thereof in: 1. Such securities in which the trustees of a savings bank may invest the moneys deposited therein as provided by law, subject, however, to the following limitations:

(a) (i) Except as provided in sections one hundred seventy-eight and three hundred six of the public housing law, no conventional mortgage may exceed sixty per centum of the appraised value of improved and unencumbered real property or seventy-five per centum of the appraised value thereof if such real property is improved by a building or buildings, the major portion of which is used, or in the case of a building under construction is to be used, for residential, business, manufacturing or agricultural purposes; (ii) the aggregate unpaid principal amount of all conventional mortgages at any time held in a fund shall not exceed thirty per centum of the assets of such fund; and

(iii) not more than five per centum of the assets of any fund shall be invested in any one conventional mortgage;

(b) the aggregate unpaid principal amount of obligations issued or guaranteed by the international bank for reconstruction and development at any time held in a fund shall not exceed five per centum of the assets of such fund;

(c) the aggregate unpaid principal amount of all obligations of the Dominion of Canada, of any province of the Dominion of Canada, and of any city of the Dominion of Canada at any time held in a fund shall not exceed five per centum of the assets of such fund;

(d) the aggregate unpaid principal amount of equipment trust certificates at any time held in a fund shall not exceed five per centum of the assets of such fund; and

(e) not more than two and one-half per centum of the assets of any fund shall be invested in the obligations of any one railroad or industrial corporation, or any one corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity or gas, or the operations of telephone and telegraph systems or waterworks, or in some combination thereof; and

(f) not more than thirty per centum of the assets of any fund shall be invested in bonds of electric and gas corporations as defined in subdivision thirteen of section two hundred thirty-five of the banking law, notwithstanding the provisions of paragraph (h) of such subdivision.

1-a. Obligations payable in United States funds of the United States, any state of the United States, District of Columbia or Commonwealth of Puerto Rico, of any department, agency or political subdivision thereof, or of any corporation, company or other issuer of any kind or description created or existing under the laws of the United States, any state of the United States, District of Columbia or Commonwealth of Puerto Rico and obligations payable in United States funds of Canada or any province or city of Canada, provided

(a) each such obligation at the time of investment shall be rated investment grade by two nationally recognized rating services or by one nationally recognized rating service in the event only one such service rates such obligation; and

(b) the aggregate investment by a fund in the obligations of any one issuer pursuant to this subdivision (other than the obligations of the United States, or those for which the faith of the United States is pledged to provide payment of the interest and principal) shall not exceed two per centum of the assets of such fund or five per centum of the direct liabilities of such issuer.

2. Equity securities, and interest-bearing obligations payable in United States funds which are convertible into equity securities, of any corporation created or existing under the laws of the United States, any state of the United States, District of Columbia and Commonwealth of Puerto Rico, or any investment company, as defined by, and which is registered under, an act of Congress of the United States, entitled the "Investment Company Act of 1940", approved August twenty-second, nineteen hundred forty, as amended, subject to the following limitations:

(a) the maximum investment by a fund in such securities shall not exceed (i) in any one year fifteen per centum of the assets of such fund, or (ii) seventy per centum in the aggregate; provided, further, however, that more than fifteen per centum of such assets, but not more than twenty per centum thereof, may be so invested in any one year but only to the extent that the per centum of such investments over all prior years from the effective date of this act when added to the per centum of such investments during that year does not exceed an average of fifteen per centum of the assets of such fund over all prior years and the year in which the investment is being made;

(b) not more than two per centum of the assets of any fund shall be invested in the equity securities of any one corporation and subsidiary or subsidiaries thereof;

(c) not more than five per centum of the total issued and outstanding equity securities of any one corporation shall be owned by any fund; and

(d) notwithstanding any other provision of law, the equity securities acquired hereunder must be registered on a national securities exchange, as provided in an act of congress of the United States, entitled the "Securities Exchange Act of 1934", approved June sixth, nineteen hundred thirty-four, as amended, or otherwise registered pursuant to said act and, if such equity securities are so otherwise registered, price

quotations for such equity securities are furnished through a nationwide automated quotations system approved by the National Association of Securities Dealers, Inc.

3. Conventional mortgages guaranteed by a state bank or trust company having a net worth in excess of five hundred million dollars, provided, however, that not more than ten per centum of the assets of any fund shall be invested in any such mortgage so guaranteed.

4. Bonds and notes of any bank, trust company, savings bank or savings and loan association organized under the laws of this state having a net worth of at least ten million dollars, which bonds and notes shall be validly secured at all times to the extent of one hundred and ten per centum of the unpaid principal amount of such bonds and notes by mortgages upon real estate insured by the federal housing administrator or any of his successors in office and guaranteed by the United States under the provisions of the national housing act, as amended or supplemented, and to the extent of one hundred and thirty-three and one-third per centum of the unpaid principal amount of such bonds and notes by conventional mortgages, the valuation of which mortgages shall be based upon the unpaid principal amount thereof upon the date of the pledge, assignment or transfer thereof to such fund or its trustee or trustees as security for such bonds and notes, such bonds or notes to be amortized in substantially equal annual or semi-annual payments of principal and interest over a period not in excess of twenty-five years, provided the aggregate unpaid principal amount of bonds and notes secured by conventional mortgages shall not exceed five per centum of the assets of such fund.

5. The trustee or trustees shall have the power to participate or co-invest in any whole or part interest in any conventional mortgage or insured mortgage, or in any whole or part interest in any such mortgage, which mortgage is held for the benefit of the holder or holders of a whole interest or part interests therein, but no such investment shall be made in any part interest which is junior or subordinate to any other part interest therein nor if the aggregate amount of all investments by the fund in whole and part interests in such mortgages when added

together will exceed the limitations set forth in the foregoing subdivisions of this section applicable to investments in such mortgages.

6. Real estate only if acquired or used for one or more of the following purposes and in the following manner:

(a) The land and the building thereon in which it has its principal office.

(b) Such as shall be requisite for its convenient accommodation in the transaction of its business.

(c) Such as shall have been acquired in satisfaction of loans, mortgages, liens, judgments, decrees or other debts previously owing to such fund in the course of its business.

(d) Such as shall have been acquired in part payment of the consideration on the sale of real property owned by it, if each such transaction shall have effected a net reduction in the fund's investment in real property.

(e) Such real property, other than property to be used primarily for agricultural, horticultural, ranch, mining, recreational, amusement or club purposes, as may be acquired, as an investment for the production of income (including capital appreciation), or as may be acquired to be improved or developed for such investment purpose pursuant to an existing program therefor, subject to the following limitations: (1) the cost of each parcel of real property so acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, when added to the value of all other real property then held by it pursuant to this subdivision, shall not exceed ten per cent of its assets, and (2) the cost of each parcel of real property acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, shall not exceed two per cent of the fund's assets.

(f) Notwithstanding any other provision of this article, for the purposes of this subdivision, an investment in an entity that invests or proposes to invest, directly or indirectly through one or more other entities, at least a majority of its assets in (1) any interest in real property of any kind or character as an investment for the production of income (including capital appreciation), or (2) debt instruments secured

by any interest in real estate may be considered an investment in real estate pursuant to this subdivision and included in the assets subject to the ten percent limitation of paragraph (e) of this subdivision.

7. The trustees of a fund shall have the power to invest the moneys thereof in limited partnerships, joint ventures, stock of corporations (including subsidiaries of the fund), group trusts, common trust funds, collective investment funds, investment companies (as defined by an act of Congress entitled the "Investment Company Act of 1940"), separate accounts established by a domestic life insurance company in accordance with section forty-two hundred forty of the insurance law, separate accounts of the kinds authorized for domestic life insurance companies in accordance with section forty-two hundred forty of the insurance law established by life insurance companies doing business in this state, real estate investment trusts (as defined in section 856 of the Internal Revenue Code of 1986) or any other similar investment entity, whether owned in whole or in part by the fund, provided that (a) such limited partnership, joint venture, corporation (including a subsidiary of the fund), group trust, common trust fund, investment company, separate account, collective investment entity, real estate investment trust or other similar investment entity has been established or organized primarily for the purpose of investing in securities, real estate or other investments in which the trustee or trustees of a fund are authorized to invest pursuant to this section; and (b) each investment by a fund pursuant to this subdivision shall be deemed to be the investment of the fund in such investment entity (rather than in the assets of such investment entity), except that in calculating the amount of the fund's investment in assets for purposes of the percentage limitations, if any set forth in this section, there shall be included all assets held by any such investment entity in which the fund shall have an investment as of the date of determination, but only to the extent of the fund's indirect interest in such assets resulting from its investment in such investment entity.

8. The trustees of a fund shall have the power to invest the moneys thereof in foreign equity securities provided that (a) any such equity security is registered on a national securities exchange, as provided in

an act of congress of the United States, entitled the "Securities Exchange Act of 1934", approved June sixth, nineteen hundred thirty-four, as amended, or otherwise registered pursuant to said act and, if such equity security is so otherwise registered, price quotations therefor are furnished through a nationwide automated quotation system approved by the National Association of Securities Dealers, Inc. or is registered on a foreign exchange organized and regulated pursuant to the laws of the jurisdiction of such exchange and (b) the corporation has averaged at least one billion dollars in annual sales for the three consecutive years preceding the year in which the investment is made or has market capitalization of at least one billion dollars at the time the investment is made. Investments in such foreign equities shall be included together with a fund's investments in other equity securities for purposes of the percentage limitations set forth in the foregoing subdivisions of this section, and not more than ten per centum of the assets of any fund shall be invested in the aggregate in such foreign equities.

9. Investments, which do not qualify or are not permitted under any other subdivision of this section, notwithstanding any other provision of law, provided

(a) the investments by a fund made pursuant to this subdivision shall not at any time exceed thirty-five per centum of the assets of such fund;

(b) such investments shall be for the exclusive benefit of the participants and beneficiaries, and the trustee or trustees of a fund shall make such investments with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) such investments shall, to the extent reasonably possible, benefit the overall economic health of the state of New York, so long and only if such investments satisfy paragraph (b) of this subdivision.

10. In calculating assets of a fund and percentages thereof for the purposes of this section, a fund is authorized to use a market valuation methodology, provided the valuation methodology is used consistently for

all such calculations and is in accordance with recognized accounting methodology.

§ 177-a. Investment in certain conventional mortgages.

Notwithstanding any provision contained in this chapter or any other general, special or local law or code to the contrary, within the limitations authorized for investment in conventional mortgages, the trustees of the fund may invest a part of its assets in first mortgages on real property located anywhere within the boundaries of the United States.

§ 177-c. Investment in mortgage pass-through certificates.

Notwithstanding the provisions of section one hundred seventy-seven, or of section one hundred seventy-eight of this article, the trustees of any fund may invest in mortgage pass-through certificates. As used in this section, the term "mortgage pass-through certificates" shall mean certificates evidencing ownership of undivided interests in pools of mortgage loans secured by first mortgages on real property located in this state improved by one-to-four family residential dwellings, provided, however, that (i) such mortgage loans are originated on or after January first, nineteen hundred eighty by any bank, trust company, national banking association, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association, credit union, or federal credit union authorized to do business in this state or by any lender approved by the secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act, (ii) such mortgage loans are assigned to a bank, trust company, federal mutual savings bank or federal savings and loan association as trustee for the benefit of the holders of such certificates and, (iii) such certificates are rated within the three highest grades by an independent rating service designated by the superintendent of financial services. In no event shall the aggregate unpaid principal on conventional mortgages securing mortgage pass-through certificates exceed ten percent of the assets of such fund nor shall the total unpaid principal on any single pool of conventional

mortgages securing mortgage pass-through certificates exceed one percent of the assets of a fund. Mortgage loans secured by first mortgages on a condominium unit designed for residential use, together with its common interest, may be included in pools of mortgage loans provided for above.

§ 177-d. Security loan agreements. 1. A fund may enter into security loan agreements with broker-dealers and with New York state or national banks for the purpose of prudently supplementing the income normally received from investments.

2. The trustees of the funds involved shall monitor the market value of the loaned marketable securities daily. In no event shall the trustees allow the value of collateral posted to fall below the market value of the loaned marketable securities.

3. The term "security loan agreement", as used in this section, shall mean a written contract whereby a fund (the lender) agrees to lend marketable securities for a period not to exceed one year, subject, however, to the following limitations:

(a) The lender must retain the right to collect from the borrower all dividends, interest, premiums, rights, and any other distributions to which the lender would otherwise have been entitled,

(b) The lender may waive the right to vote the securities during the term of the loan,

(c) The lender must retain the right to terminate the contract upon not more than five business days' notice.

(d) The borrower shall provide collateral to the lender in the form of cash, bonds, or performance letters of credit drawn on a bank with capital, surplus and undivided earnings in excess of one hundred million dollars, or other interest-bearing notes and obligations of the United States or federal instrumentalities eligible for investment by a fund,

(e) The security loan agreement shall provide for payment of additional collateral on a daily basis, or at such time as the value of the loaned marketable securities increases to agreed upon ratios.

4. The term "marketable securities", as used in this section, shall

mean securities that are freely traded on recognized exchanges or marketplaces.

§ 178. Additional limitations on eligible investments.

Notwithstanding any other provision of law, including the provisions of the administrative code of the city of New York, the trustee or trustees of a fund shall not have the power to invest in any insured mortgage or conventional mortgage of an unpaid principal amount at the time of investment of less than two hundred fifty thousand dollars; provided, however, that this limitation shall be inapplicable as to those mortgages pledged, assigned or transferred to the fund as collateral security for the unpaid balance of the bonds and notes purchased from any bank, trust company, savings bank or savings and loan association authorized by subdivision four of section one hundred seventy-seven of this chapter; and provided further that, with respect to any fund administered for employees of the city of New York, the trustee or trustees of such a fund shall be authorized to invest in any insured mortgage or conventional mortgage of an unpaid principal amount at the time of investment of not less than one hundred thousand dollars.

§ 178-a. Custody and nominee registration of stock and securities. 1.

Notwithstanding any other provision of law, including the provisions of the administrative code of the city of New York and the education law, the public officer or officers designated by law as the custodian of a fund are authorized, in accordance with the provisions of this section, to turn over the physical custody and safekeeping of any stock or other securities, in registered or bearer form, owned by such fund to (a) any state bank or trust company located in this state, or (b) any national bank located in this state, or (c) any private banker duly authorized by the superintendent of financial services of this state to engage in business here. All such private bankers shall, as private bankers, maintain a permanent capital of not less than one million dollars in this state. Transfers of stocks or securities must receive the prior consent of the trustees of such fund, under such terms and conditions as they may specify. The custodian of such fund may direct such bank, trust

company or private banker to register and hold any such stock or securities in its custody, in the name of its nominee. The custodian of such fund may also authorize such bank, trust company or private banker to deposit, or arrange for the deposit, of such stock or securities in a clearing corporation (as defined in article eight of the uniform commercial code). In addition, the custodian of such fund may deposit, or authorize such bank, trust company or private banker, to deposit, or arrange for the deposit of any of such securities the principal and interest of which the United States, or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, with a federal reserve bank to be credited to an account as to which the ownership of, and other interests in, such securities may be transferred by entries on the books of such federal reserve bank without physical delivery of any securities. The records of such bank, trust company or private banker shall show, at all times, the ownership of such stock and securities, and they shall, when held in the possession of such bank, trust company or private banker be, at all times, kept separate from the assets of such bank, trust company or private banker. When any such stock or securities are so registered in the name of a nominee, such bank, trust company or private banker shall be absolutely liable for any loss occasioned by the acts of such nominee with respect to such stock or securities.

2. (a) The custodian of such fund may also authorize such bank, trust company or private banker to appoint one or more foreign entities as its agent to hold and register foreign securities. Such foreign entity must be either:

(i) a banking institution or trust company holding securities itself or in a securities depository or clearing agency which acts as a securities depository; or

(ii) a securities depository or clearing agency which acts as a securities depository.

(b) For purposes of the appointment of a foreign entity as agent, the term "banking institution or trust company" shall mean an entity which is:

(i) regulated by the relevant regulatory authority in that jurisdiction and has shareholders equity of not less than one hundred

million dollars; or

(ii) a branch of, or a majority-owned direct or indirect subsidiary of, a domestic bank, trust company or private banker eligible to be authorized to have custody of securities under this section.

(c) For purposes of the appointment of a foreign entity as agent, the term "securities depository or clearing agency which acts as a securities depository" shall mean an entity which:

(i) is regulated by the relevant national regulatory authority in that jurisdiction;

(ii) is operated pursuant to the charter and by-laws of any company or association organized as a securities depository or clearing agency which operates a system for the central handling of securities or equivalent book entries; or

(iii) may be used as a securities depository or clearing agency which acts as a securities depository by an investment company (as defined by an act of congress entitled the "Investment Company Act of 1940").

(d) Registration of foreign securities may be in the name of any such foreign entity or its nominee, provided that the books and records of the domestic bank, trust company or private banker which made the appointment of the foreign entity shall show, at all times, the beneficial ownership of the fund.

(e) A domestic bank, trust company or private banker which has custody of foreign securities of such fund shall be absolutely liable for any loss with respect to such securities which is occasioned by its acts, the acts of its agent, the acts of its nominee or its agent's nominee or the acts of any foreign entity appointed by it or any such foreign entity's agent or nominee.

§ 179. Investments in municipal assistance corporation obligations; indemnification. 1. It is hereby found and declared that obligations of the municipal assistance corporation for the city of New York are reasonable, prudent, proper and legal investments for any fund described in subdivision one of section one hundred seventy-six of this article or for any board member, officer, employee, trustee or fiduciary thereof to make on behalf of such fund.

2. Notwithstanding any other provision of law, including the provisions of subdivision one of section seventeen of the public officers law, no member of the board, officer, employee, fiduciary of any fund described in subdivision one of section one hundred seventy-six of this article shall incur or suffer any liability whatsoever to any person beneficially interested in such system by reason of any investment of the monies thereof in obligations of the municipal assistance corporation for the city of New York and each such system shall save harmless and indemnify all members of the board, officers, employees, trustees, fiduciaries and investment advisors of any fund described in subdivision one of section one hundred seventy-six of this article from financial loss arising out of any claim, demand, suit, action or judgment for alleged negligence, waste or breach of fiduciary duty by reason of any investment of any monies of such fund in obligations of the municipal assistance corporation for the city of New York provided that such person shall, within five days after the date on which he is served with any summons, complaint, process, notice, demand, claim or pleading, deliver the original or a true copy thereof to the legal advisor of such system. Upon such delivery the legal advisor of such system may assume control of the representation of such person in connection with such claim, demand, suit, action or proceeding. Such person shall cooperate fully with the legal advisor of the system or any other person designated to assume such defense in respect of such representation or defense.

3. The provisions of this section shall not be applicable to purchases made by the New York city employees' retirement system, the board of education retirement system of the city of New York, the teachers' retirement system of the city of New York, the New York city police pension funds and fire department pension funds in obligations of the municipal assistance corporation for the city of New York and obligations of the city of New York from the municipal assistance corporation for the city of New York and the city of New York after November twenty-third, nineteen hundred seventy-five, but nothing herein contained shall be deemed to diminish the indemnification provided for purchases made by the New York city employees' retirement system, the board of education retirement system of the city of New York, the New

York city police pension funds and fire department pension funds in obligations of the municipal assistance corporation for the city of New York and obligations of the city of New York from the municipal assistance corporation for the city of New York and the city of New York on and after September ninth, nineteen hundred seventy-five, but prior to November twenty-third, nineteen hundred seventy-five, in accordance with the provisions of this section.

§ 179-a. Construction. In the event of any conflict or inconsistency between the provisions of this article four-a and the provisions of any other provision of law as to the percentage of assets of a fund which may be invested in any one type of investment or in any one particular investment, the provisions of this article shall govern.

Nothing contained in this article shall be construed to affect any lawful investment made prior to the effective date of this article by the trustee or trustees of a fund, and any such investment may be retained or disposed of by such trustee or trustees in accordance with any other provision of law.

ARTICLE 4-B

PUBLIC PENSION FUND GROUP LIFE INSURANCE

Section 185. Definitions.

186. Public pension fund group life insurance.

§ 185. Definitions. As used in this article, unless a different meaning clearly appears from the context: a. The term "fund" shall mean any public retirement system or pension fund which grants retirement or pension benefits to employees of the city of New York, employees of the state of New York, employees of any department or agency of the city of New York or of the state of New York, employees of any municipality or other participating employer participating in the New York state and local employees' retirement system or the New York state and local police and fire retirement system, and employees of school districts

participating in the New York state teachers' retirement system.

b. The term "ordinary death benefit":

(1) shall include only the death benefits authorized by:

(a) sections sixty, sixty-a, sixty-b, sixty-c, three hundred sixty, three hundred sixty-a, three hundred sixty-b, three hundred sixty-c, four hundred forty-eight, four hundred forty-eight-a, five hundred eight, five hundred eight-a, six hundred six and six hundred six-a of the retirement and social security law; and

(b) section five hundred twelve of the education law; and

(c) sections B3-32.0, B20-39.0 and B20-40.0 of the administrative code of the city of New York and

(d) subdivisions a, b and c of section B18-38.0 of such code and subdivisions a, a-1, b, c and f of section B19-7.79 of such code; and

(e) section twenty of the rules and regulations of the board of education retirement system of the city of New York; and

(f) subdivision four of section B3-36.0 of such code, subdivision two of section B20-41.0 of such code, subdivision d of section B18-38.0 of such code, subdivisions d, e and f of section B19-7.79 of such code, section two hundred seven-h of the general municipal law, as added by chapter nine hundred four of the laws of nineteen hundred sixty-six and amended, section two hundred seven-h of the general municipal law, as added by chapter nine hundred six of the laws of nineteen hundred sixty-six and section fourteen-a of the rules and regulations of the board of education retirement system of the city of New York, in any case where the death to which any of the provisions above mentioned in this subparagraph (f) is applicable occurs before the effective date of retirement designated by the member or by the board of trustees of the retirement system, as the case may be; and

(2) shall include the accelerated death benefit authorized by subdivision nine of section five hundred eleven of the education law; and

(3) shall not include a death benefit payable as the result of an accident sustained in the performance of duty.

§ 186. Public pension fund group life insurance. The trustee or

trustees of a fund are authorized to take such steps as are necessary to afford any ordinary death benefit provided by such fund in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries of members on whose behalf such benefit is payable.

ARTICLE 5

CONSTRUCTION, LAWS REPEALED, EFFECTIVE DATE

Section 180. Construction.

181. Laws repealed.

182. Effective date.

§ 180. Construction. a. An act of the legislature of the year nineteen hundred fifty-five or nineteen hundred fifty-six which, in form, amends or repeals or purports to amend or repeal any provision or provisions of the supplemental pension act or of article four, five or six of the civil service law, as in force immediately prior to July first, nineteen hundred fifty-six, shall be deemed and construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of such act or law, as contained in this act.

b. An act of the legislature of the year nineteen hundred fifty-five or nineteen hundred fifty-six which adds, or purports to add a new section, subdivision or other provision of law to the supplemental pension act or article four, five or six of the civil service law, as in force immediately prior to July first, nineteen hundred fifty-six, shall be deemed and construed as having been added to this act and shall be given full effect according to its context as if the same had been added expressly and in terms to this act and shall be deemed and construed to have been inserted in this act in the appropriate position in regard to and as modifying the effect of the corresponding provision or provisions of this act.

§ 181. Laws repealed. Of the laws enumerated in the schedule hereto

annexed, that portion specified in the last column is hereby repealed:

§ 182. Effective date. This act shall take effect July first, nineteen hundred fifty-six. The right to change, alter, amend or repeal this act or any part thereof prior to that date is hereby reserved.

ARTICLE 6

SUPPLEMENTAL RETIREMENT ALLOWANCE ACT

Section 190. Short title.

191. Definitions.

192. Supplemental retirement allowances of retired employees.

193. Authorization to municipalities to adopt necessary local laws, ordinances or resolutions.

194. Payment of supplemental retirement allowances.

195. Rules and regulations.

196. Information to be furnished to comptroller.

197. Supplemental pension fund.

198. Reimbursement for payments to state retired teachers.

199. Reimbursement by participating employers for payments to certain state retired employees.

200. Reimbursement of supplemental pension fund by the state.

201. Restriction on use of retirement or pension funds.

202. Limitations on obligations.

203. Effect of unconstitutionality in part.

§ 190. Short title. This act may be cited as the "Supplemental Retirement Allowance Act."

§ 191. Definitions. As used in this act:

a. The term "state retired employee" shall mean a person sixty-two years of age or older who is retired, or any person retired for disability regardless of age, and receives, as a result of such

retirement, a retirement allowance or pension from any state administered and operated retirement or pension plan or system.

b. The term "local retired employee" shall mean a person sixty-two years of age or older who is retired, or any person retired for disability regardless of age, and receives, as a result of such retirement, a retirement allowance or pension from any retirement or pension system or plan of a municipality.

c. The term "state retired teacher" shall mean a person sixty-two years of age or older who is retired, or any person retired for disability regardless of age, and receives, as a result of such retirement, a retirement allowance from the New York state teachers retirement system.

d. The term "local retired teacher" shall mean a person sixty-two years of age or older who is retired, or any person retired for disability regardless of age, and receives, as a result of such retirement, a retirement allowance from any teachers' retirement system administered and operated by a municipality or a school district located therein.

e. The term "municipality" shall mean a county, city, town or village.

f. The term "comptroller" shall mean the state comptroller.

§ 192. Supplemental retirement allowances of retired employees.

Notwithstanding any other provision of the retirement and social security law, any state retired employee or state retired teacher, as defined by section one hundred ninety-one of this article, who, unless retired for disability, had at least five years of credited service at the time of his retirement, shall be entitled to a supplemental pension payment to be known as a supplemental retirement allowance payable annually in monthly installments in accordance with the following provisions of this section:

a. The supplemental retirement allowance provided for herein shall be a percentage of the retirement allowance, computed without optional modification, based on the year of his retirement, in accordance with the schedule hereinafter set forth, provided, however, that no supplemental retirement allowance shall:

(1) Exceed one thousand five hundred dollars per year, nor

(2) Together with the retirement allowance computed without optional modification, and the primary benefit obtained under the federal old-age survivors, and disability insurance system, exceed four thousand dollars a year, nor

(3) In the case of any person under the age of sixty-two retired for disability, together with the retirement allowance computed without optional modification, the primary benefit obtained under the federal old-age, survivors, and disability insurance system, and any earnings as the result of his own employment including self employment, exceed four thousand dollars a year, nor

(4) In the case of state retired employees, be paid for that portion of the annuity based on additional contributions made pursuant to section twenty-one (i) of the retirement and social security law, or section fifty-eight of the civil service law since repealed, nor, in the case of state retired teachers, that portion of the annuity based on additional contributions made pursuant to subdivision three of section five hundred sixteen of the education law, nor

(5) Be paid to any state retired employee or state retired teacher for any period during which he returns to service with the state or a political subdivision thereof other than service in employment authorized by section two hundred eleven, section two hundred twelve or section two hundred fourteen of this chapter.

b. The supplemental retirement allowance shall be computed in accordance with the following schedule:

YEAR OF RETIREMENT	PER CENTUM
1961 or thereafter	none
1960	three
1959	five
1958	six
1957	nine

1956	thirteen
1955	fifteen
1954	fifteen
1953	fifteen
1952	sixteen
1951	eighteen
1950	twenty-eight
1949	twenty-eight
1948	twenty-eight
1947	thirty-eight
1946	fifty-eight
1945	seventy-two
1944	seventy-six
1943	seventy-nine
1942	ninety
1941	one-hundred-eleven
1940	one-hundred-twenty-two
Prior to 1940	one-hundred-twenty-two

c. Any such retired employee already receiving a supplemental pension under other provisions of the retirement and social security law shall continue to receive such supplemental pension or shall receive the supplemental retirement allowance provided under this section, whichever shall be greater.

§ 193. Authorization to municipalities to adopt necessary local laws, ordinances or resolutions. Any municipality is hereby authorized and empowered to adopt and amend a local law, ordinance or resolution providing for supplemental retirement allowance payments both to local retired employees thereof and local retired teachers of a school district located therein. Any such local law, ordinance or resolution shall provide an equitable method of computing the amount of such payments. The supplemental retirement allowances paid to local retired employees shall not exceed the supplemental retirement allowances paid to state retired employees pursuant to this article. The supplemental retirement allowances paid to local retired teachers shall not exceed

the supplemental retirement allowances paid to state retired teachers pursuant to this article. Any such local law, ordinance or resolution may contain provisions necessary and appropriate for the proper administration of such supplemental retirement allowance payments, including a provision requiring the filing of verified applications for such payments.

§ 194. Payment of supplemental retirement allowances. On or before the last day of each month, there shall be paid to each state retired employee and state retired teacher, from the supplemental pension fund, the monthly supplemental retirement allowance payment to which he may be entitled under the provisions of this article.

§ 195. Rules and regulations. The comptroller shall prescribe such rules and regulations as may be required for the effective administration of the provisions of this article relating to supplemental retirement allowance payments to state retired teachers and state retired employees.

§ 196. Information to be furnished to comptroller. The comptroller shall have authority to require any department or agency of the state to furnish him with such records, information and data as he may need to carry out the provisions of this article.

§ 197. Supplemental pension fund. As used in this article the supplemental pension fund is the special fund as provided by section one hundred sixty-seven of the retirement and social security law.

§ 198. Reimbursement for payments to state retired teachers. As soon as practicable after the close of each fiscal year of the state, the comptroller shall certify to the commissioner of education a statement of the total amount paid out by him during such fiscal year to state

retired teachers pursuant to this article. Such amount shall be apportioned on the same basis and collected in the same manner as is provided for the collection of employers' contributions to the New York state teachers retirement system by subdivision two of section five hundred twenty-one of the education law. Amounts so collected shall be deposited in and credited to the supplemental pension fund.

§ 199. Reimbursement by participating employers for payments to certain state retired employees. a. Each participating employer of the New York state employees' retirement system, as defined in subdivision twenty of section two of the retirement and social security law, shall contribute to the cost of providing supplemental retirement allowance payments to those state retired employees who retire from service with such participating employer in the manner provided in this section.

b. As soon as practicable after the close of each fiscal year of the state, the comptroller shall determine the pro rata share of the cost of providing such supplemental retirement allowance payments during such fiscal year to be contributed by each such participating employer. Such pro rata share shall be determined on the basis of the ratio which the total annual compensation paid to members of the New York state employees' retirement system by each such participating employer as of the close of the fiscal year preceding such fiscal year, bears to the total amount of annual compensation paid to members of such system by all such participating employers as of such date.

c. The comptroller thereupon shall submit to the fiscal officer of each such participating employer a statement of the amount to be contributed by it pursuant to this section. Payment of the amount specified in the comptroller's statement shall be made by such participating employer within sixty days after the receipt thereof. If payment of the full amount of such obligation is not made within sixty days after the receipt of such statement, interest at the rate of four per centum per annum shall commence to run against the unpaid balance thereof on the first day after such sixtieth day. While any such sum shall remain due and unpaid the comptroller may refuse to audit any

claim for funds due to such participating employer from the state.

d. All amounts received by the comptroller from such participating employers pursuant to this section shall be deposited in and credited to the supplemental pension fund.

§ 200. Reimbursement of supplemental pension fund by the state. The comptroller shall include with his budget estimate furnished to the governor for each fiscal year amounts estimated by him to be sufficient to reimburse the supplemental pension fund for:

a. The cost of providing supplemental retirement allowance payments during the current fiscal year to all state retired employees, except those who retired from service with a participating employer of the New York state employees' retirement system, as defined by subdivision twenty of section two of the retirement and social security law, and

b. The state's pro rata share of the cost of providing supplemental retirement allowance payments during the current fiscal year to state retired teachers, such pro rata share to be determined as provided in section one hundred ninety-eight of this article. The commissioner of education shall furnish the comptroller with such information and data as the comptroller may need to prepare such estimate.

§ 201. Restriction on use of retirement or pension funds. No moneys belonging to any publicly administered and operated retirement or pension system or plan shall be appropriated or used for any purpose, or for any payment, authorized or required by this article.

§ 202. Limitations on obligations. The supplemental retirement allowances provided pursuant to this article shall not constitute membership in a pension or retirement system of the state or of a political subdivision thereof, nor shall the granting of such allowances create a contractual relationship between the state or a political

division thereof and any retired employee as defined in section one hundred ninety-one of this chapter.

§ 203. Effect of unconstitutionality in part. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE 7

RE-EMPLOYMENT IN PUBLIC SERVICE OF RETIRED PUBLIC EMPLOYEES

- Section 210. Definitions.
- 211. Employment of retired persons without diminution of retirement allowance.
 - 212. Employment of retired persons.
 - 213. Membership in retirement system or service credit not allowed for employment under this article.
 - 214. Continuation of employment privilege of certain retired persons.
 - 214-a. Continuation of service as elected official by certain retired persons.
 - 214-b. Pension rights of certain retired persons who are appointed to the office of New York city marshal.
 - 215. Effective period.
 - 216. Constitutional convention delegates and employees.
 - 217. Reporting requirements; school salary transparency and disclosure.

§ 210. Definitions. As used in this article:

a. The term "retired person" means a retired member of a retirement system or pension plan administered by the state or any of its political

subdivisions who is receiving a retirement allowance for other than physical disability.

b. The term "retirement allowance" means the total amount payable to a retired person, whether in the form of pension or annuity, or both, from a retirement system or systems or pension plan or plans administered by the state or any of its political subdivisions.

c. The term "supplemental retirement payment" means the supplemental pension payment or supplemental retirement allowance payable pursuant to article four or article six of this chapter, or section B20-44.1 or chapter forty-nine, title D, of the administrative code of the city of New York, or any other state or local law providing for similar supplemental pension payments or supplemental retirement allowances.

d. The term "final salary" means the maximum salary or compensation which the retired person currently would be receiving in the position from which he was last retired if he had not retired. If such position has been abolished, the appropriate authority or officer prescribed in paragraph (a) of subdivision two of section two hundred eleven of this chapter shall determine, on the basis of the salary or compensation currently paid to persons in similar or comparable positions by the employer from whose service such retired person last retired, the maximum amount of salary or compensation which such retired person currently would be receiving in such position.

e. The term "public service" means the service of the state or any political division thereof, including a special district, district corporation, school district, board of cooperative educational services or county vocational education and extension board, or the service of a public benefit corporation or public authority created by or pursuant to laws of the state of New York, or the service of any agency or organization which contributes as a participating employer in a retirement system or pension plan administered by the state or any of its political subdivisions.

f. The term "former employer" means the state or a political

subdivision, public corporation, school district, board of cooperative educational services, county vocational education and extension board, or an agency or organization which contributes as a participating employer in a retirement system or pension plan administered by the state or any of its civil divisions, which directly paid the salary or compensation of a retired person at any time during the two years immediately preceding his retirement and who paid the salary on which the retiree's retirement allowance is based.

§ 211. Employment of retired persons without diminution of retirement allowance. 1. Notwithstanding the provisions of sections one hundred one, two hundred twelve and four hundred one of this chapter or section five hundred three of the education law, or the provisions of any local law or charter, a retired person may be employed and earn compensation in a position or positions in the public service, without any effect on his or her status as retired and without suspension or diminution of his or her retirement allowance subject to one of the following: (a) His or her total compensation in such position or positions in any calendar year, including compensation earned under other provisions of this article, shall not exceed the multiple of five hundred dollars next higher than the difference between (1) the sum of his or her annual retirement allowance computed without optional modification plus annual supplemental retirement payments, if any, and (2) the salary on which his or her retirement allowance is based or his or her final salary, whichever is greater; or (b) The position in which he or she is employed is not a position in the service of a former employer.

2. (a) No retired person may be employed in a position in public service pursuant to subdivision one hereof except upon approval of

(1) the state civil service commission; or

(2) the commissioner of education if such person is to be employed in the unclassified service of a school district other than the city of New York, a board of cooperative educational services or a county vocational education and extension board; or

(3) the municipal civil service commission of the city of New York if such person is to be employed in a position in the service of the city

of New York or in the classified service in the board of education of such city; or

(4) the chancellor of the city school district of the city of New York if such person is to be employed in the unclassified service under the board of education of the city of New York; or

(5) the board of higher education of the city of New York if such person is to be employed in the classified or unclassified service under the board of higher education of the city of New York; or

(6) the chancellor of state university if such person is to be employed in the unclassified service of the state university of New York, or in the professional service at the state colleges of agriculture, home economics, veterinary medicine or industrial and labor relations, the state agricultural experiment station at Geneva or any other institution or agency under the management and control of Cornell university as representative of the board of trustees of state university of New York, or at the state college of ceramics under the management and control of Alfred university as representative of the board of trustees of state university of New York or in the unclassified service of a community college other than those in the city of New York; or

(7) the chief administrator of the courts if such person is to be employed in a judicial or nonjudicial position in the unified court system.

(b) Such approval may be granted only on the written request of the prospective employer of such retired person, which request shall state detailed reasons therefor related to the standards set forth herein, and on a finding, on evidence satisfactory to the appropriate officer or authority specified in paragraph (a) of this subdivision,

(1) that the retired person is duly qualified, competent and physically fit for performance of the duties of the position in which he or she is to be employed and is properly certified where such certification is required;

(2) that he or she will earn more than one thousand dollars in one year, including compensation earned in such position under other provisions of this article that there are not readily available for recruitment persons qualified to perform the duties of such position; and (4)];

(3) that the prospective employer has prepared a detailed recruitment plan to fill such vacancy on a permanent basis;

(4) that his or her employment is in the best interests of the government service; and

(5)(i) that there is an urgent need for his or her services in such position as a result of an unplanned, unpredictable and unexpected vacancy where sufficient time is not available to recruit a qualified individual and that such hiring shall be deemed as non-permanent rather than a final filling of such position; or

(ii) that the prospective employer has undertaken extensive recruitment efforts to fill such vacancy and as a result thereof, has determined that there are no available non-retired persons qualified to perform the duties of such position.

Such approvals may be granted for periods not exceeding two years each, provided that such person may not return to work in the same or similar position for a period of one year following retirement. The authority or officer specified in paragraph (a) of this subdivision, upon approving employment of a retired person under this section, shall certify such approval to the retirement system or pension plan from which such person is receiving a retirement allowance.

(c) Notwithstanding any provision of this subdivision, designation of a retired person as a judicial hearing officer by the chief administrator of the courts, pursuant to provisions of article twenty-two of the judiciary law, shall constitute approval under subparagraph seven of paragraph (a) of this subdivision. In making such a designation, the chief administrator shall not be subject to the provisions of paragraph (b) of this subdivision, except that the chief administrator shall certify such designation to the retirement system or pension plan from which the person designated is receiving a retirement allowance.

3. If a retired person employed under this section earns in such employment in any calendar year an amount in excess of the maximum earnings allowed under subdivision one of this section, his retirement allowance and supplemental retirement payments shall be suspended until the total amount so suspended equals the amount of such excess.

4. A retired person who returns to public service on or after January first, nineteen hundred seventy-four, as a consultant shall be subject to the limitations applicable to a reemployed retiree as specified in this section or in any other provision of law.

5. An officer, commission or board specified in paragraph (a) of subdivision two of this section which has approved the employment of any retired person is hereby authorized to require such retired person and the department head or other appointing authority under whose jurisdiction such retired person is employed to furnish at any time information concerning the employment and earnings of such retired person. It shall be the duty of such retired person and such department head or other appointing authority to co-operate fully in furnishing such requested information. Such officer, commission or board may rescind approval granted for the employment of a retired person upon finding that such approval was obtained by deception or misrepresentation of any material fact, or that such retired person is serving in a position or engaged in duties substantially different from the position or duties for which his employment was approved, or that such employment does not otherwise conform with the requirements of this section, or that such retired person or the department head or other appointing authority under whose jurisdiction he is employed has failed to co-operate fully in furnishing requested information concerning the employment and earnings of such retired person.

6. Any request for approval of the employment of a retired person under this section, including the reasons stated therefor, and the findings and determination on such request shall be a public record open for inspection in the office of the officer, commission or board making such findings and determination as specified in paragraph (a) of subdivision two of this section.

7. The provisions of this section shall not be construed to authorize the employment of any person in any position in the civil service except in compliance with requirements of the civil service law and rules applicable to such employment.

8. Each officer, commission or board specified in paragraph (a) of subdivision two of this section may adopt appropriate regulations, procedures and forms for implementation of the provisions of this section. Such regulations may authorize employment of a retired person, without prior approval, but pending application for approval under this section, in situations of unforeseen and immediate need.

* 9. Notwithstanding the provisions of this section, sections two hundred twelve and four hundred one of this chapter and section five hundred three of the education law and any other law, regulation, rule, local law, or charter to the contrary, a retired person may be employed and earn compensation in a position or positions in the service of a school district or a board of cooperative educational services in the state without any effect on his or her status as retired and without suspension or diminution of his or her retirement allowance and without prior approval pursuant to subdivision two of this section. Earnings received as a result of employment in a school district or a board of cooperative educational services in the state shall not be applied to a retired person's earnings when calculating the earnings limitations imposed by subdivisions one and two of section two hundred twelve of this article.

* NB Repealed June 30, 2027

§ 212. Employment of retired persons. 1. Notwithstanding the provisions of section one hundred one, two hundred eleven or four hundred one of this chapter or of section five hundred three of the education law, or the provisions of any local law or charter, any retired person may continue as retired and, without loss, suspension or diminution of his or her retirement allowance, earn in a position or positions in public service in any calendar year an amount not exceeding the amount set forth in the table in subdivision two of this section provided such retired person employed under this section duly executes and files with the retirement system from which he or she is receiving a retirement allowance a statement that he elects to have the provisions of this section apply to him or her. A statement of election executed and filed pursuant to this section may be withdrawn by a retired person

at any time by a statement similarly executed and filed. However, there shall be no earning limitations under the provisions of this section on or after the calendar year in which any retired person attains age sixty-five. The retirement board of the New York state teachers' retirement system is authorized to adopt rules and regulations which would allow retired persons receiving a retirement allowance from such system to make such statements of earnings from a position or positions in public service as such board shall determine necessary to enforce the provisions of this section in lieu of the foregoing statement of election.

2. The earning limitations for retired persons in positions of public service under this section shall be in accordance with the following table:

For the year	Earnings limitation
1996	\$12,500
1997	\$13,500
1998	\$14,500
1999	\$15,500
2000	\$17,000
2001	\$18,500
2002	\$20,000
2003	\$25,000
2004	\$27,500
2005 and 2006	\$27,500
2007 through 2019	\$30,000
2020 and thereafter	\$35,000

3. Notwithstanding the provisions of subdivisions one and two of this section, the commissioner of education may determine, pursuant to section two hundred eleven of this article, that such earnings limitations shall not apply to a retired police officer employed by a school district as a school resource officer.

§ 213. Membership in retirement system or service credit not allowed for employment under this article. a. The provisions of any local law

or charter notwithstanding, no retired person employed in public service pursuant to the provisions of this article shall be required or permitted to become a member of any retirement system or pension plan administered by the state or any of its political subdivisions.

b. Member service credit may not be purchased or granted in any retirement system or pension plan administered by the state or any of its political subdivisions for any period of employment in public service authorized under the provisions of this article.

§ 214. Continuation of employment privilege of certain retired persons. Notwithstanding any provision of this article, a retired person employed prior to July first, nineteen hundred sixty-four, under the provisions of subdivision f of section one hundred one of the retirement and social security law, or subdivision two of section one hundred fifty of the civil service law, or section one hundred fifty-one of the civil service law, or section 9.13 of the mental hygiene law, or section five hundred eleven-b of the education law, or section B20-48.1 of the administrative code of the city of New York, may be similarly employed during the effective period of this article subject to the same conditions and limitations as were applicable to his employment under the respective provisions under which he was employed prior to July first, nineteen hundred sixty-four.

§ 214-a. Continuation of service as elected official by certain retired persons. Notwithstanding the provisions of this chapter or any other state or local law to the contrary, an elected county, city, town, or village official may continue in a current term of such elective office at the time of their retirement from another position of public service. Retention of such elective office, limitation on earnings and/or reduction or suspension of retirement payments shall be subject to the same terms and conditions for re-employment in public service imposed pursuant to the provisions of this chapter and/or the provisions of the civil service law.

§ 214-b. Pension rights of certain retired persons who are appointed to the office of New York city marshal. a. Notwithstanding the provisions of this chapter or the provisions of any state or local law or charter to the contrary, no retired person who retired from (1) the New York city police pension fund, (2) the New York city employees' retirement system as (A) a member of the uniformed force of the New York city department of correction, or (B) an employee of the city of New York in the title of deputy city sheriff level one, deputy city sheriff level two, supervising deputy sheriff or administrative sheriff, or (3) the New York city fire department pension fund in a title in the fire marshal occupational group, and who is appointed to the office of New York city marshal, shall have his or her retirement allowance suspended or reduced on or after the effective date of this section because of compensation earned by such retired person from service as a New York city marshal.

b. Notwithstanding the provisions of subdivision f of section two hundred ten of this article or the provisions of any other law to the contrary, service in the office of New York city marshal by any retired person shall not be considered employment in a position in the service of a former employer for the purposes of section two hundred eleven of this article.

§ 215. Effective period. The privilege granted by this article to retired persons to continue as such and earn compensation in positions in public service shall remain in full force and effect until December thirty-first, nineteen hundred seventy-four.

§ 216. Constitutional convention delegates and employees. a. Notwithstanding anything to the contrary contained in this article or any other section of this chapter or any other provision of any general or local law, a member retired from any public pension system of the state, elected as a delegate of the convention to revise and amend the constitution of the state in the year nineteen hundred sixty-seven, or

serving as an employee of such convention may serve and earn compensation in such position without any effect on his status as such retired member and without suspension or diminution of his retirement allowance.

b. Member service credit may not be purchased or granted in any retirement system or pension plan administered by the state or any of its political subdivisions for any period of service in the capacity prescribed by subdivision a.

§ 217. Reporting requirements; school salary transparency and disclosure. 1. A school district and a board of cooperative educational services shall report all money earned by a retired person in their employ that is in excess of the earnings limitation outlined in section two hundred twelve of this article to the retirement system administered by the state or any of its political subdivisions from whom such retired person is collecting their retirement allowance.

2. A school district or a board of cooperative educational services employing a retired person who is eligible to collect or is already collecting a retirement allowance from a retirement system administered by the state or any of its political subdivisions shall report on an annual basis to the retirement system paying such retirement allowance to such retired person and to the state comptroller. This report shall consist of the re-employed retiree's name, date of birth, place of employment, current position and all earnings.

ARTICLE 8

NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM

Section 290. Short title of article.

§ 290. Short title of article. This article shall be known and may be cited as the "Police and Fire Retirement System Act."

TITLE 1

LEGISLATIVE INTENT; TRANSITORY PROVISIONS

Section 292. Legislative intent.

293. Transfer of assets and liabilities.

294. Transfer of retirement membership, contributions, reserves and other credits of police officers and firefighters, and certain other persons.

295. Payment of retirement allowances and transfer of reserves.

296. Continuation of certain tables and rates.

297. Transfer of records and documents.

298. Temporary advances.

§ 292. Legislative intent. It is the intent of the legislature, by the enactment of this article, to establish a separate retirement system for police officers and firefighters and to transfer thereto all police officers and firefighters who, on the effective date of such article, are members of the New York state and local employees' retirement system, and all other persons who are members of such system and contributing pursuant to the provisions of sections eighty-one through eighty-seven, inclusive, of this chapter, immediately prior to the effective date of this article, together with such rights, benefits, privileges, obligations and duties enjoyed by or applicable to such police officers, firefighters and other persons as members of the employees' retirement system.

§ 293. Transfer of assets and liabilities. a. As used in this section, "assets of the employees' retirement system" means the assets of such system as shown on page four of the annual report as of March thirty-first, nineteen hundred sixty-seven, prepared for the New York state department of financial services; "liabilities of the employees' retirement system" means the liabilities of such system as shown on page five of the annual report as of March thirty-first, nineteen hundred sixty-seven, prepared for the New York state department of financial services.

b. After the annual valuation of the assets and liabilities of the funds of the employees' retirement system required by subdivision d of section eleven of this chapter and on the basis of the actuarial information available to him or her on March thirty-first, nineteen hundred sixty-seven, the comptroller shall determine the total amount of the assets and liabilities of the employees' retirement system and the percentage of such assets and the amount of such liabilities attributable to police officers and firefighters and all other persons transferred. After such determination, and subject to the approval of the superintendent of financial services, the comptroller shall transfer such percentage of the total assets and the amount of such liabilities of the employees' retirement system to the retirement system established by this article. Each category of such assets, including but not limited to such categories as government bonds, corporate bonds, common stocks, mortgages insured under the National Housing Act, conventional mortgages, etc. so transferred, shall constitute as nearly as possible the percentage of the total assets of the employees' retirement system which are attributable to police officers and firefighters and other persons transferred determined from the actuarial valuation as of March thirty-first, nineteen hundred sixty-seven. The assets so transferred shall include a proportionate share of contributions from participating employers to be received by the employees' retirement system after April first, nineteen hundred sixty-seven, based on valuations prior to that date. The comptroller is hereby authorized and directed to invoice for and to collect such contributions for the employees' retirement system in the same manner and to the same extent as if the members transferred to the system established by this article had continued as members of the employees' retirement system.

§ 294. Transfer of retirement membership, contributions, reserves and other credits of police officers and firefighters, and certain other persons. a. The membership in the employees' retirement system of police officers and firefighters on the effective date of this article, and of all persons who are members of such system on such date and contributing pursuant to the provisions of sections eighty-one through eighty-eight,

inclusive, of this chapter as in force and effect immediately prior to the effective date of this article, shall be transferred to the retirement system established by this article on the effective date thereof. All such persons transferred to the retirement system established pursuant to the provisions of this article shall be entitled to all prior service credits and member service credits and to all the rights, privileges, immunities, benefits, refunds, increases, advances, insurance, pensions, annuities, retirement allowances, death benefits and options and shall be subject to all obligations, dues, duties and requirements to which they were entitled or were subject, as the case may be, pursuant to the provisions of article two of this chapter. Persons becoming members of the retirement system established by this article subsequent to March thirty-first, nineteen hundred sixty-seven, and who are entitled to credit for service rendered as a member of the employees' retirement system shall be entitled to the same credit for such service pursuant to this article.

b. Accumulated contributions, reserves and any other credits standing to the credit of persons enumerated in subdivision a of this section shall be transferred to the credit of such persons in the retirement system established by this article. Members so transferred shall continue to contribute at the same rate as applied to them individually in the employees' retirement system and they shall continue to be entitled to the same rights, benefits and privileges as they were entitled to as members of the employees' retirement system on the effective date of this article.

§ 295. Payment of retirement allowances and transfer of reserves. a. On the effective date of this article, all retired police officers and firefighters, and other persons who have retired pursuant to the provisions of sections eighty-one through eighty-eight, inclusive, of this chapter, as in force and effect immediately prior to the effective date of this article, and their beneficiaries shall be transferred and become a charge upon the retirement system established by this article and shall thereafter receive their retirement allowances from such system.

b. Reserves held by the comptroller for the payment of such retirement allowances shall be transferred to the retirement system established by this article on the effective date thereof.

§ 296. Continuation of certain tables and rates. All tables, schedules, rates (including but not limited to regular and special deficiency rates), regular and special deficiency periods, and other actuarial tables, rates and procedures in effect and used by the employees' retirement system for or in connection with any of its activities or operations with respect to the membership of police officers and firefighters and persons who are members of such system pursuant to sections eighty-one through eighty-eight, inclusive, shall continue to be used in the same manner by the retirement system established by this article, and shall remain in effect unless and until duly modified or rescinded by the provisions of this article.

§ 297. Transfer of records and documents. Records and documents of the employees' retirement system relating to police officers and firefighters and other persons who are members of such system pursuant to sections eighty-one to eighty-eight, inclusive, shall be transferred to the retirement system established by this article.

§ 298. Temporary advances. At any time after this article shall become law and prior to the date upon which assets and other funds are transferred from the employees' retirement system to the retirement system established by this article, the comptroller is empowered, upon his warrant, to direct the head of the division of the treasury, to transfer from funds kept on deposit to the credit of the New York state employees' retirement system an amount, not exceeding five million dollars, to the credit of the retirement system established by this article. Such monies shall be deposited as provided in subdivision e of section three hundred thirteen of this article, and shall be used for the purpose of meeting disbursements for pensions, annuities and other

payments ordered by the comptroller, and for expenses of maintenance and operation, including personal service. The amount so advanced shall be deducted from the total amount to be transferred by the employees' retirement system to the retirement system established by this article, upon the final settlement of all accounts by such system as provided in this article.

TITLE 2

Section 302. Definitions.

§ 302. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

1. "Accumulated contributions." The sum of all the amounts deducted from the compensation of a member or contributed by him, standing to the credit of his individual account in the annuity savings fund together with regular interest and special interest, if any, thereon.

2. "Annual compensation."

a. The salary or wages annually earnable by a member, including maintenance, or any allowance in lieu thereof, received by the member.

b. The compensation earnable and any allowance of expenses or maintenance, or any allowance in lieu thereof, received by a member as a delegate, officer or employee of the conventions to revise and amend the constitution of the state in the years nineteen hundred thirty-eight or nineteen hundred sixty-seven or both.

3. "Annuity." The annual allowance for life, payable in monthly installments and derived from a member's accumulated contributions made pursuant to this article.

4. "Annuity reserve." The present value of all payments to be made on

account of any annuity or benefit in lieu of any annuity granted as provided in this article, computed upon the basis of regular interest and such mortality tables as shall be adopted by the comptroller.

5. "Beneficiary." Any person in receipt of a retirement allowance, or other benefit pursuant to this article.

6. "Comptroller." The comptroller of the state.

7. "Department." Any agency of an employer or any unit of government employing persons who are or may be entitled to become members of the police and fire retirement system.

8. "Employer." The state, a participating employer, and any other unit of government or organization obligated or agreeing, under this article, to make contributions to the retirement system on behalf of its police officers and firefighters.

9. "Final average salary."

a. The average annual compensation of a member for credited government service not exceeding his three years of credited government service immediately preceding his date of retirement.

b. In the case of a member having credit for three years or more of member service, such term shall mean his highest average annual compensation earned during any three consecutive years of member service for which he is credited, provided that a member by written request, filed with the comptroller prior to the effective date of retirement and in form satisfactory to the comptroller, may select any other period of three consecutive years of member service for which he is credited.

c. In the case of a member who:

(1) Served as a supervisor of a town when such town was not a participating employer, and

(2) Was paid for such services on a fee basis, and

(3) Upon the town's subsequently becoming a participating employer,

has paid contributions to the police and fire retirement system with respect to salary received for prior county services, such term shall mean, at the option of such member, his or her average annual compensation, including such fees and salary, earned by him or her during any three consecutive years of service with such municipality selected by the applicant prior to the date of his or her retirement.

d. By the adoption, filing and approval, where required, of a resolution in the manner provided by section three hundred thirty or three hundred thirty-one of this article, as the case may be, a participating employer may elect to provide that "Final Average Salary" shall mean the regular compensation earned from such participating employer by a member during the twelve months of actual service immediately preceding the date of such employee's retirement, exclusive of any lump sum payments for sick leave, or accumulated vacation credit, or any form of termination pay; provided, however, if the compensation earned in said twelve months exceeds that of the previous twelve months by more than twenty per centum, the amount in excess of twenty per centum shall be excluded in the computation of final average salary; provided further, however, that the benefits computed pursuant to this paragraph shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this subdivision, in which case such greater benefit shall be payable.

e. (1) Notwithstanding the provisions of paragraph d of this subdivision and of section four hundred thirty-one of this chapter, compensation earned for working vacations shall be considered regular compensation for the purpose of calculating the final average salary under paragraph d of this subdivision of a member whose employer elects the benefit provided under this paragraph and to assume the additional cost. The benefit provided for in this paragraph shall be conditioned upon the participating employer electing, in a manner similar to that provided in subdivision a of section three hundred thirty of this article, to provide this benefit and assume the additional cost thereof. The additional cost for the election of this option, for a member whose employer is a unit of government in the city of Buffalo, may require a past service cost which shall be borne over a five year period from the

date of election. The first year payment shall not exceed \$1.35 million, with the balance to be paid in four equal annual payments. Such election shall only apply to all of the eligible employees who retired on or before the effective date of this paragraph. Such election must be filed with the comptroller on or before December thirty-first, nineteen hundred ninety; provided, however, for a member whose employer is a unit of government in the city of Buffalo, such election must be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-three.

(2) The benefit provided for in this paragraph shall be paid from additional contributions made by the appropriate participating employer on account of such members. The actuarial present value of the additional benefits payable pursuant to the provisions of this paragraph shall be funded over a five year period. The amount of the annual payment in each of the five years shall be determined by the retirement system actuary and it shall be paid by each of the electing employers for each employee who receives the benefits payable under this paragraph. Upon approval of the comptroller, the amount of such required contributions shall be certified by him to the fiscal officer of the electing employer.

(3) An employer who makes an election under this paragraph shall prepare and file with the retirement system a list of the names and social security numbers of all its employees who retired on or before the effective date of this paragraph who received compensation for working vacation during their last twenty-four months of service. The list shall also contain the amount of working vacation compensation earned by each employee during the last twelve months of service.

(4) For the purposes of this paragraph, the term employer shall mean only a city with a population in excess of fifty thousand in the most recent decennial census recorded prior to the effective date of this paragraph.

10. "Fiscal year." Any year commencing April first and ending March thirty-first next following.

11. "Police or fire service." Paid service as follows:

a. Service as an officer or member of the state police force in the executive department.

b. Service as an officer or member of a police force or department of a state park authority or commission.

c. Service as an officer or member of an organized police force or department of any county, city, town, village, police district, authority or other participating employer.

d. Service as an officer or member of an organized fire department of any county, city, town, village or fire district or other participating employer.

e. Service as other than an officer or member of an organized police or fire department and for which credit is given under the provisions of sections three hundred eighty-one, three hundred eighty-one-a, three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-four, three hundred eighty-four-a, three hundred eighty-four-b, three hundred eighty-five, three hundred eighty-five-a, three hundred eighty-six, three hundred eighty-seven, three hundred eighty-eight.

* f. Service as a sworn police officer of the division of law enforcement in the department of environmental conservation.

* NB There are two paragraph f's

* f. Service as a sworn police officer of the capital police force in the office of general services.

* NB There are two paragraph f's

g. Service as a fire chief-airport, firefighter-airport, or fire captain-airport, with the county of Monroe. Such persons shall be deemed firefighters and members of an organized fire department for all purposes under this chapter.

h. Service as an aircraft rescue firefighter with the Niagara frontier transportation authority.

i. Service as a university police officer appointed by the state

university of New York pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law.

j. Service as a supervisor of forest ranger services; assistant supervisor of forest ranger services; forest ranger 3; forest ranger 2; forest ranger 1 employed by the state department of environmental conservation or sworn officer of the division of forest protection and fire management in the department of environmental conservation responsible for wild land search and rescue, wild land fire management in the state as prescribed in subdivision eighteen of section 9-0105 and title eleven of article nine of the environmental conservation law, exercising care, custody and control of state lands administered by the department of environmental conservation.

k. Service as an investigator or sworn officer of the New York Waterfront Commission or the waterfront commission of New York harbor.

12. "Government service." Paid service as follows:

a. Service as an officer or employee of an employer, including service
(1) As a delegate, officer or employee of the conventions to revise and amend the constitution of the state in the years nineteen hundred thirty-eight or nineteen hundred sixty-seven or both, or

(2) Rendered to a village which became a city on or before May twenty-fourth, nineteen hundred twenty-three.

b. Service as a public school teacher in the state rendered while contributing to a local retirement system, subsequently absorbed by the state teachers' retirement system, and where the contributions made thereto were not returned to such contributor.

c. Teaching service in an institution for the instruction of the deaf, mute or the blind, which receives state pupils whose instruction and support are paid for by the state or a participating employer.

d. Library service from July first, nineteen hundred twenty-two, only to the extent that such service is paid from appropriations by a

participating employer.

e. Service in any city or county institution that became a state institution on or before May eleventh, nineteen hundred twenty, only to the extent that such service is paid for by the state or by such institution.

12-a. "Infant." Any person who has not attained the age of eighteen years.

13. "Local legislative body."

a. In the case of a county, the board of supervisors.

b. In the case of a city, the council, common council or board of aldermen and the board of estimate, board of estimate and apportionment or board of estimate and contract, if there be one.

c. In the case of a town, the town board.

d. In the case of a village, the board of trustees.

e. In the case of any other municipality, the body charged by law with the government or management thereof.

14. "Local pension system." Any retirement, pension or annuity fund or system of any county, city, town, village, fire or police district of the state.

15. "Medical board." The board of physicians provided by section three hundred seventy-four of this article.

16. "Member." Any person included in the membership of the retirement system as provided in section three hundred forty of this article.

17. "Member service."

a. Any police or fire service rendered in the employ of the state, or an agency thereof, subsequent to January first, nineteen hundred twenty-one.

b. Any police or fire service rendered in the employ of a participating employer subsequent to the date it becomes a participating employer.

c. Any police or fire service rendered in the employ of a participating employer between the first date of its eligibility to participate in the retirement system and the first day of its actual participation therein, provided such employer elected to participate within the first year of its eligibility to do so.

d. Any service for which credit is given under the provisions of sections three hundred eighty-one, three hundred eighty-one-a, three hundred eighty-two, three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-four, three hundred eighty-four-a, three hundred eighty-four-b, three hundred eighty-five, three hundred eighty-five-a, three hundred eighty-six, three hundred eighty-seven, three hundred eighty-eight.

18. "Minimum retirement age." Age sixty, except that as to members who shall have elected to contribute on the basis of retirement at the age fifty-five, such term shall mean age fifty-five.

19. "Municipality." A county, city, town, village, police district or fire district or public or quasi-public organization participating as provided in section three hundred thirty-one.

20. "Participating employer." Any municipality participating in the police and fire retirement system.

21. "Payroll." Annual compensation earnable by members, when used as a basis for determination of the amount to be contributed by an employer to the retirement system.

22. "Pension." The annual allowance for life, payable in monthly installments, derived from contributions made to the pension accumulation fund pursuant to this article.

22-a. "Pension-providing-for-increased-take-home-pay." The annual allowance for life payable in monthly installments derived from contributions made to the pension accumulation fund pursuant to section three hundred seventy-a of this article.

23. "Pension reserve." The present value of all payments to be made on account of any pension, or benefit in lieu of any pension, granted as provided in this article, computed upon the basis of regular interest and such mortality tables as shall be adopted by the comptroller.

24. "Prior service." Not to exceed a total of thirty-five years of service rendered as follows:

a. Government service rendered to the state prior to January first, nineteen hundred twenty-one.

b. Government service rendered to a participating employer, other than as provided in section thirty-one of this chapter, prior to the first date of eligibility of such employer to participate in the state employees' retirement system. In the case of any such participating employer which did not elect to participate in the retirement system until after its first year of eligibility to so participate, such term shall mean, in addition, three-fourths of all government service rendered to it between its first date of eligibility to so participate and the date when it became a participating employer. The local legislative body of such employer, by resolution duly adopted, may determine to allow full credit therefor.

c. Service allowed as prior service by an employer pursuant to section thirty-one of this chapter.

d. Service of honorably discharged officers, soldiers, sailors, marines and army nurses who were actual residents of the state at the

time of their entry into the military service of the United States or, if not actual residents of the state of that time, are or were or are hereafter employees of a participating employer created by and deriving its powers from an agreement between this state and any other state and were actual residents of such other state at the time of their entry into the military service of the United States:

(1) Rendered in time of war and prior to July second, nineteen hundred twenty-one, or

(2) Rendered with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, provided such entry occurred after November eleventh, nineteen hundred eighteen.

e. Service of members of the national guard in the military service of the United States pursuant to the call of the president for Mexican border duty.

25. "Rate of normal contribution."

a. In the case of an employer, the rate of annual contribution computed pursuant to paragraph one of subdivision b of section three hundred twenty-three of this article.

b. In the case of a member, the basic rate of contribution determined without modification pursuant to subdivision b of section three hundred twenty-one of this article.

26. "Regular interest." a. Such term shall mean interest recommended by the actuary and promulgated by the comptroller as provided in paragraph four of subdivision b of section three hundred eleven of this article, which is in effect on the date of a member's retirement, and such rate shall be no less than four per centum per annum and at no more than seven per centum per annum, compounded annually.

b. However, for purposes of crediting interest to individual accounts in the annuity savings fund, such term shall mean four per centum per annum, compounded annually, in the case of police officers and

firefighters who last became members of the New York state and local employees' retirement system on or before June thirtieth, nineteen hundred forty-three and who have continuously thereafter been members of either such system or the police and fire retirement system and shall mean three per centum per annum, compounded annually, in the case of all other police officers and firefighters.

26-a. "Reserve-for-increased-take-home-pay." The amount of the reserve provided by the employer which shall be equivalent to that per centum of the member's compensation by which his contribution is reduced or would otherwise be reduced if his rate of contribution equaled or exceeded eight per centum as provided in subdivision a of section three hundred seventy-a of this article and that per centum by which his contribution is suspended as provided in subdivision aa of section three hundred seventy-a of this article during the period his employer contributes pursuant to section three hundred seventy-a of this article toward pensions-for-increased-take-home-pay, plus regular interest thereon.

27. "Retirement allowance." The annuity plus the pension and the pension-providing-for-increased-take-home-pay, if any.

28. "Retirement system." The New York state and local police and fire retirement system provided for in section three hundred ten of this article.

29. "Service in the Korean conflict." Military service during the period commencing June twenty-seventh, nineteen hundred fifty, and terminating January thirty-first, nineteen hundred fifty-five, as a member of the armed forces of the United States of any person who:

a. (1) Has been honorably discharged or released therefrom under honorable circumstances, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and

b. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state and was a resident of such other state at the time of his entrance into such armed forces, and

c. Was a member of the New York state and local employees' retirement system and an employee of the state or of a participating employer of such system at the time he or she entered such armed forces or was an employee of an employer which was not a participating employer at the time he or she entered such armed forces but which elected to become a participating employer of such system while he or she was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined in article eleven of the education law at the time of his or her entrance into the armed forces and became a member of the police and fire retirement system subsequent to separation or discharge from the armed services, and

d. Returned to the employment of the state or a participating employer, within one year following discharge or release or completion of advanced education provided under the servicemen's readjustment act of nineteen hundred forty-four, certified on a certificate for service in war after world war I, and allowable as provided in section three hundred forty-one of this article. Such service shall not include any periods during which civil compensation was received by the member under the provisions of section two hundred forty-two of the military law or section six of chapter six hundred eight of the laws of nineteen hundred fifty-two.

29-a. "Emergency service on or after October first, nineteen hundred sixty-one." Active duty (other than for training) in the armed forces of the United States as defined in title ten of the United States code on or after October first, nineteen hundred sixty-one and terminating on August thirty-first, nineteen hundred sixty-two, of any person who:

a. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state and was a resident of such other state at the time of his entrance into such armed forces, and

b. Was a member of the New York state and local employees' retirement system and an employee of the state or of a participating employer of such system at the time he or she entered such armed forces or was an employee of an employer which was not a participating employer at the time he or she entered such armed forces but which elected to become a participating employer while he or she was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined in article eleven of the education law at the time of his or her entrance into the armed forces and became a member of the police and fire retirement system subsequent to separation or discharge from the armed services, and

c. Returned to the employment of the state or a participating employer, within one year following discharge or release, or completion of advanced education provided by the United States for education of Korean conflict veterans, certified on a certificate for service in war after world war I, and allowable as provided in section three hundred forty-one of this article. Such service shall not include any periods during which civil compensation was received by the member for accrued vacation and overtime credit or under the provisions of section two hundred forty-two of the military law or section six of chapter six hundred eight of the laws of nineteen hundred fifty-two.

d. Credit under this section shall not accrue to a person who is released from active duty under conditions other than honorable, unless such person has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable

from such service.

30. "Service in war after world war I." Service in world war II, service in the Korean conflict, or emergency service on or after October first, nineteen hundred sixty-one.

31. "Service in world war II." (1) Military service during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, as a member of the armed forces of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or service by one who served

as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or of any person who:

a. (i) Has been honorably discharged or released therefrom under honorable circumstances, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and

b. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state and was a resident of such other state at the time of his entrance into such armed forces, and

c. Was either a member of the New York state and local employees' retirement system and an employee of the state or of a participating employer of such system at the time he or she entered such armed forces or became such employee and such member while in such armed forces on or before July first, nineteen hundred forty-eight, or became such employee while in such armed forces and subsequently became such member on or before July first, nineteen hundred forty-eight, or was an employee of an employer which was not a participating employer at the time he or she

entered such armed forces but which elected to become a participating employer while he or she was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined in article eleven of the education law at the time of his or her entrance into the armed forces and became a member of the police and fire retirement system subsequent to separation or discharge from the armed services, and

d. Returned to the employment of the state or a participating employer, within one year following discharge or release or completion of advanced education provided under the servicemen's readjustment act of nineteen hundred forty-four, certified on a world war II military service certificate, and allowable as provided in section forty-one of this article. Such service shall not include any periods during which civil compensation was received by the member under the provisions of section two hundred forty-two of the military law, or section six of chapter six hundred eight of the laws of nineteen hundred fifty-two; or

(2) Military service, not in excess of three years and not otherwise creditable under paragraph one hereof, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty,

from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or by a person who was a resident of New York state at the time of entry into such service and at the time of being discharged therefrom (vii) under honorable circumstances, or (viii) with a qualifying condition, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or (ix) as a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or, if not a resident of this state at such times was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state, and was a resident of such other state at the time of entry into and discharge from such service, and who makes the payments

required by subdivision k of section three hundred forty-one of this chapter.

However, no military service shall be creditable under this paragraph two in the case of a member under an existing plan permitting retirement upon twenty years of creditable service who is receiving a federal pension (other than for disability) based upon a minimum of twenty years of military service in the armed forces of the United States nor shall such military service be creditable in the case of a member under any other plan who is receiving a military pension (other than for disability) for such service.

32. "Service retirement benefit." Any type of retirement benefit provided by this article and payable out of the pension reserve fund, except the ordinary disability retirement, accidental disability retirement, discontinued service retirement, ordinary death and accidental death benefit.

33. "State." The state of New York.

34. "Total service." All police and fire service while a member of the police and fire retirement system, all service for which a member has received credit under a retirement system maintained by the state prior to becoming a member of the police and fire retirement system, all prior service certified on a valid prior service certificate, and all service in war after world war I certified on a valid military service certificate. For the purposes of this article, a valid certificate heretofore issued for service in world war II shall be deemed a certificate for service in war after world war I.

35. "Special interest." A distribution to the annuity savings fund, in addition to regular interest, to be credited to the annuity savings accounts of members, the size of this distribution, if any, to be determined pursuant to the provisions of subdivision i of section three hundred thirteen of this article.

TITLE 3

ESTABLISHMENT, MANAGEMENT, SUPERVISION AND FINANCING

- Section 310. Retirement system established; a corporation.
311. Duties of comptroller; the actuary.
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- 316-a. Amortization of amounts outstanding.
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317. Annual appropriation by participating employers.
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- 317-b. Amortization of a portion of the bills for participating employers for the two thousand four--two thousand five fiscal year.
- 317-c. Amortization of a portion of the bills for participating employers for the two thousand five--two thousand six fiscal year.
- 317-d. Amortization of a portion of the bills for participating employers for the two thousand six--two thousand seven fiscal year.
318. Guaranty.
319. Filing of documents with the retirement system.
- 319-a. Employer contributions for the two thousand ten - two thousand eleven fiscal year and subsequent fiscal years.

§ 310. Retirement system established; a corporation. The policemen's and firemen's retirement system is hereby established. Such system shall

have the powers and privileges of a corporation and shall be known as the "New York State and local Police and Fire Retirement System." All of the business of such retirement system shall be transacted, all of its funds invested and payments made, and all of its cash, securities and other properties shall be held in such name, except as provided in article nine of this chapter.

Reference in this chapter or in any other law to the New York state policemen's and firemen's retirement system shall be deemed to mean and refer to the New York state and local police and fire retirement system.

§ 311. Duties of comptroller; the actuary. a. The comptroller shall be the administrative head of the police and fire retirement system. Subject to the limitations of this article and of law, he or she shall adopt and may amend, from time to time, rules and regulations for the administration and transaction of the business of the police and fire retirement system and for the custody and control of its funds. The comptroller shall:

1. Maintain all necessary accounting records, and
2. Keep in convenient form such data as shall be necessary for the actuarial valuation of the various funds of the police and fire retirement system, and
3. Establish funds, in addition to those provided for by this article, which in his or her judgment are necessary or required for the proper fiscal management of the police and fire retirement system, and
4. Perform such other functions as are required for the execution of the provisions of this article.

b. The comptroller shall engage the services of an actuary and may employ such other necessary technical and administrative assistance as he or she may require. For the purpose of determining upon the proper tables to be prepared and submitted to the comptroller for adoption, the

actuary, from time to time, but at least once in each five years, shall make such investigation of the mortality, service and compensation experience of the members as the comptroller may authorize. On the basis of such investigation and upon the recommendations of the actuary, the comptroller shall:

1. Adopt for the police and fire retirement system such mortality and other tables as shall be deemed necessary, and

2. Certify the rates of deduction, if any, from compensation computed to be necessary to pay the annuities authorized under the provisions of this article.

3. From time to time, but at least once in each five years, promulgate a rate or rates of estimated future investment earnings.

4. From time to time, but at least once in every five years, promulgate a rate or rates of regular interest.

c. On the basis of such aforesaid tables and an estimated rate or rates of future investment earnings as the comptroller shall adopt:

1. The actuary shall make an annual valuation of the assets and liabilities of the funds of the police and fire retirement system, and

2. The comptroller shall certify annually the rates expressed as proportions of payroll of members, which shall be used in computing the contributions required to be made by employers to the pension accumulation fund.

d. The comptroller shall make an annual report showing the valuation of the assets and liabilities of the funds of the police and fire retirement system, as certified by the actuary, a statement of receipts and disbursements and his or her recommendations in regard thereto. Such report shall be published with and as a part of the annual report of the comptroller.

e. Special interest, if any, shall be credited annually in the same manner as regular interest pursuant to subdivision i of section three hundred thirteen of this article to the individual annuity savings accounts of persons who are members as of the close of the fiscal year.

f. The records of the police and fire retirement system shall be open to public inspection.

g. The comptroller shall adopt and amend pursuant to this article only such rules and regulations as he or she determines to be for the best interest of the retirement system and its members.

§ 312. Statement of services. a. It shall be the duty of the head of each department or agency of the state government employing police officers and/or firefighters, and of the chief fiscal officer of each participating employer, at the request of the comptroller, to submit to him or her a statement showing the name, title, compensation, duties, date of birth and length of service of each police officer and/or firefighter: (exclusive of members of a local system), and such other information as the comptroller may require. If any such police officer or firefighter be principally engaged upon duties differing from those specified by the appropriate civil service commission for the title held by him or her, such head of department or agency, or chief fiscal officer, shall certify the reasons therefor and the probable duration of the duties being so performed by such police officer or firefighter.

b. Each police officer and firefighter shall be subject to all the provisions of this article and to all the rules and regulations adopted by the comptroller.

§ 313. Management of funds. a. The funds of the police and fire retirement system shall be managed in accordance with this section.

b. The comptroller shall be trustee of the several funds of the police and fire retirement system. Such funds shall be invested by the

comptroller in securities in which he or she is authorized by law to invest the funds of the state, except that he or she may invest in obligations consisting of notes, bonds, debentures or equipment trust certificates issued under an indenture, which are the direct obligations of, or in the case of equipment trust certificates are secured by direct obligations of, a railroad or industrial corporation, or a corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity, or gas, or the operation of telephone or telegraph systems or waterworks, or in some combination of them; provided the obligor corporation is one which is incorporated under the laws of the United States, or any state thereof, or of the District of Columbia, and said obligations shall be rated at the time of purchase within the three highest classifications established by at least two standard rating services. The maximum amount that the comptroller may invest in such obligations shall not exceed thirty per centum of the assets of the New York state police and fire retirement system's funds; and provided further that not more than two and one-half per centum of the assets of the New York state police and fire retirement system's funds shall be invested in the obligations of any one corporation of the highest classification and subsidiary or subsidiaries thereof, that not more than two per centum of the assets of the New York state police and fire retirement system's funds shall be invested in the obligations of any one corporation of the second highest classification and subsidiary or subsidiaries thereof, that not more than one and one-half per centum of the assets of the New York state police and fire retirement system's funds shall be invested in the obligations of any one corporation of the third highest classification and subsidiary or subsidiaries thereof. He or she shall, however, be subject to all terms, conditions, limitations and restrictions imposed by this article and by law upon the making of such investments. The comptroller shall have full power:

1. To hold, purchase, sell, assign, transfer or dispose of any of the securities or investments, in which any of the funds of the police and fire retirement system shall be invested, including the proceeds of such investments and any monies belonging to such funds, and

2. In his or her name as trustee, to foreclose mortgages upon default or to take title to real property in such proceedings in lieu thereof and to lease and sell real property so acquired.

c. The comptroller annually shall credit to each of the funds of the police and fire retirement system regular interest on the mean amount therein for the preceding year.

d. The custody of all funds of the police and fire retirement system shall be in the charge of the head of the division of the treasury of the department of taxation and finance, subject to the supervision and control of the commissioner of taxation and finance.

e. Payment of all pensions, annuities and other benefits shall be made as provided in this article. For the purpose of meeting disbursements for pensions, annuities and other payments ordered by the comptroller, the head of such division may keep on deposit an available fund which shall not exceed ten per centum of the total amount of the several funds of the police and fire retirement system. Every such deposit shall be kept only in a bank or trust company organized under the laws of this state, or in a national bank located in this state, which shall furnish adequate security therefor.

f. The comptroller, however, shall have a fund in his or her immediate possession. Such fund shall be used for the immediate payment of:

1. All pensions, annuities and other benefits, and

2. Such expenses as may necessarily be incurred in acquiring, servicing and foreclosing mortgages and in acquiring, managing and protecting investments, and

3. Such special expenditures for which the police and fire retirement system will be paid by the state or a participating employer. Such fund shall be reimbursed from time to time by the head of such division on the warrant of the comptroller.

g. Neither the comptroller nor any person employed on the work of the police and fire retirement system shall:

1. Except as herein provided, have any interest, direct or indirect, in the gains or profits of any investment of the police and fire retirement system, nor, in connection therewith, directly or indirectly, receive any pay or emolument for his or her services.

2. Except as provided in section three hundred fifty of this article:

(a) Directly or indirectly, for himself or herself or as an agent or partner of others, borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the comptroller, or

(b) Become an endorser, surety or an obligor in any manner of monies loaned by or borrowed of such funds.

h. The police and fire retirement system may use a part of its funds, not exceeding ten per centum of its assets, (1) for purchasing or leasing of land in the city of Albany and the construction thereon of a suitable office building or buildings for the transaction of the business of the retirement system, (2) for purchasing or leasing of land in the cities of Albany, Syracuse, Buffalo, Binghamton, New York, Rochester and Utica and the construction thereon of a suitable office building or buildings for purposes of lease or sale to the state, (3) for purchasing or leasing of land in the city of Albany on the north and south sides of Washington avenue commonly known as the "Campus Site" acquired by the state for a state building site pursuant to the provisions of chapter five hundred seventy-two of the laws of nineteen hundred forty-seven and the construction thereon of power plants including service connections, electric substations including service connections, garages, warehouses and restaurant facilities deemed necessary for the efficient and economical operation of the office building or buildings constructed on such land and (4) for purchasing or leasing of land in the city of Albany acquired by the state for suitable parking facilities for the use primarily of employees of the state and persons having business with state departments and state agencies and the construction thereon of such structures, appurtenances and

facilities deemed necessary for the efficient and economical operation of the parking facilities constructed on such land and (5) for purchasing or leasing of land in locations approved by the state university trustees and the construction, acquisition, reconstruction, rehabilitation or improvement of suitable buildings or facilities thereon for purposes of lease or sale to the state university construction fund, such buildings or facilities to be used by the state university or by state-operated institutions or statutory or contract colleges under the jurisdiction of the state university or by the students, faculty and staff of the state university or of any such state-operated institution or statutory or contract college, and their families.

The police and fire retirement system from time to time may lease to any public agency any portion of a building constructed for the transaction of its business which may not be required for such purpose, upon such terms and conditions as shall be deemed to be for the best interest of the police and fire retirement system.

Real property of the police and fire retirement system acquired or constructed pursuant to this subdivision shall be exempt from taxation.

i. At the close of each fiscal year, the average rate of investment earnings of the retirement system shall be computed by the actuary and certified to the comptroller. This rate shall be determined from the investment earnings during the calendar year which ended three months prior to the close of the fiscal year. For any year that such average rate of earnings is in excess of three per centum but not in excess of four per centum, the comptroller shall declare a rate of special interest, for members earning regular interest of three per centum, equal to the difference between such average rate of earnings and three per centum, expressed to the lower one-tenth of one per centum, but not in excess of one per centum. For any year, commencing with the fiscal year the first day of which is April first, nineteen hundred seventy, that such average rate of earnings is in excess of four per centum, the special rate of interest for members earning regular interest of three per centum shall be equal to the difference between such average rate of

earnings and three per centum, expressed to the lower one-tenth of one per centum, but not in excess of two per centum, and for members earning regular interest of four per centum, it shall be the difference between such average rate of earnings and four per centum, expressed to the lower one-tenth of one per centum, but not in excess of one per centum. Special interest at such rates, shall be credited, by the comptroller at the same time that regular interest is credited, to the individual annuity savings accounts of persons who are members as of the close of the fiscal year. Special interest shall not be considered in determining rates of contribution of members. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to the fiscal years beginning April first, nineteen hundred seventy-two and ending March thirty-first, nineteen hundred seventy-three.

j. The retirement system may invest, within the limitations authorized for investments in conventional mortgages, a part of its funds in first mortgages on real property located anywhere within the boundaries of the United States and leased to the government of the United States, provided however, that no such investment shall be made unless the terms of the mortgage shall provide for amortization payments in an amount sufficient to completely amortize the loan within the period of the lease.

§ 314. Legal adviser. The attorney general of the state shall be the legal adviser of the police and fire retirement system.

§ 315. State supervision. The police and fire retirement system established by this article shall be subject to the supervision of the superintendent of financial services. Such supervision shall be in accordance with the provisions of the insurance law to the extent that such provisions are applicable to the police and fire retirement system and are not inconsistent with the provisions of this article.

§ 316. Annual appropriation by state. a. Upon the basis of each annual actuarial valuation and appraisal provided for in this article, the comptroller, on or before the fifteenth day of October of each year, shall prepare and file with the director of the budget an itemized estimate of the amounts necessary to be appropriated by the state to the pension accumulation fund and the New York state public employees group life insurance plan, as appropriate. Such itemized estimate may be revised on or before December thirtieth of each such year. Such amounts shall be sufficient to provide for payment in full for (i) the succeeding fiscal year of all estimated obligations of the state to the police and fire retirement system; and (ii) any actual obligations of the state to such retirement system, remaining unpaid, plus interest on such amount, for the fiscal year ending on the March thirty-first preceding such date; provided, however, that such estimate of actual obligations shall be made commencing with the filings due on October fifteenth, nineteen hundred eighty-seven and thereafter. If, as a result of the estimate required to be made pursuant to clause (i) of the preceding sentence, the state overpaid its actual obligation to the retirement system in any year, the amount estimated in the filing required by this subdivision next succeeding such overpayment shall reflect the amount of such overpayment, plus interest on such amount, as a reduction in amounts that would otherwise be estimated to be due the retirement system from the state. An item of appropriation which shall be sufficient to provide for such obligations shall be included in the next annual appropriation bill when it is presented to the legislature for passage. The amounts so appropriated or so much thereof as may be required shall be paid from the state treasury on warrant of the comptroller into the pension accumulation fund and the New York state public employees group life insurance plan, as appropriate, on March first of each state fiscal year. For the purposes of this section, interest shall mean the rate or rates of interest used in the actuarial valuations covering the period of time over which such interest is computed.

b. On or before the fifteenth day of October of each year the comptroller shall file with the director of the budget an itemized estimate of the expenses of the police and fire retirement system for

the ensuing year. The director of the budget may revise and amend such estimate. After such revision and amendment, if any, such director shall approve the same for inclusion in the executive budget. No monies shall be paid out of the pension accumulation fund for such expenses unless expenditures therefor shall have been authorized by law.

c. Whenever the compensation of any member of the police and fire retirement system is paid from a special or administrative fund provided for by law, all contributions to the police and fire retirement system including a proportionate share of the administrative expense thereof, which otherwise would be chargeable to the general fund of the state, shall, with the approval of the director of the budget, be paid from such special or administrative fund.

§ 316-a. Amortization of amounts outstanding. a. On or before September first, nineteen hundred eighty-six, on the basis of the annual actuarial valuation and appraisal procedure provided for in this article, the comptroller shall determine the annual amounts that, had this section not been enacted, would have been required to be paid into the pension accumulation fund and the New York state public employees group life insurance plan, as appropriate, from the general fund of the state for all obligations of the state to the police and fire retirement system, not discharged prior to such date, for state fiscal years ending March thirty-first, nineteen hundred eighty-five and March thirty-first, nineteen hundred eighty-six and amounts for the state's contribution for the retirement incentive program that would, had this section not been enacted, be due to be paid into the pension accumulation fund during fiscal years ending March thirty-first, nineteen hundred eighty-seven and March thirty-first, nineteen hundred eighty-eight. Such amounts shall include interest, as defined in section three hundred sixteen of this article through the last day of February, nineteen hundred eighty-seven. The sum of such amounts shall be called the "amount to be amortized".

b. The amount to be amortized shall be paid into the pension accumulation fund and the New York state public employees group life

insurance plan, as appropriate, according to a schedule of equal annual installments during any years remaining in the amortization period. The "amortization period" shall be seventeen years. The first payment shall be made March first, nineteen hundred eighty-seven.

c. The amount of the annual payment to be made in any subsequent fiscal year shall be the amount that would be required to pay in full, in equal annual installments over the remainder of the amortization period, any unpaid balance of the amount to be amortized and interest on such unpaid balance computed at eight percent per annum.

d. On or before October fifteenth of nineteen hundred eighty-six and each succeeding year during the amortization period, the comptroller shall file with the director of the budget an estimate of the amount of the annual payment required to be made pursuant to this section in the state fiscal year beginning the first day of April next succeeding such October fifteenth.

e. An item of appropriation sufficient to provide for such payment shall be included in the next annual budget bill for the support of government presented to the legislature for passage. The amounts so appropriated shall be paid from the general fund of the state upon warrant of the comptroller on March first of each state fiscal year during the amortization period.

§ 316-b. Notice of change. (1) The comptroller, on or before the fifteenth day of October of each year, shall submit to the director of the division of the budget and the chairmen of the senate finance committee and the assembly ways and means committee written notice of any proposed material change in the annual actuarial valuation provided for in this article or any other material change, other than those provided by legislation or resolution, affecting the state's or any other participating employer's estimated or actual obligations to the pension accumulation fund and the New York state public employees group life insurance plan for the succeeding fiscal year.

(2) Notwithstanding any provision of law to the contrary, for fiscal

years commencing April first, nineteen hundred eighty-eight, April first, nineteen hundred eighty-nine and April first, nineteen hundred ninety the actuarial value of assets shall be calculated using the five year smoothing method that was used for the fiscal year commencing April first, nineteen hundred eighty-seven which method has been determined to be actuarially sound.

§ 316-c. Amortization of a portion of the state's contribution bills for fiscal year ending March thirty-first, two thousand five. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions, then, on or before October fifteenth, two thousand three on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the annual amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that the state is permitted to pay on an amortized basis) required to be paid pursuant to section three hundred twenty-three-a of this article for the fiscal year ending March thirty-first, two thousand five. The amount by which the contribution amount with respect to fiscal year ending March thirty-first, two thousand five exceeds seven percent of the pensionable salary base for fiscal year ending March thirty-first, two thousand five shall be the "amount eligible for amortization." The "amount eligible for amortization" shall be amortized over a ten-year period at eight percent interest per annum, with the first of ten equal payments payable during fiscal year ending March thirty-first, two thousand six, provided, however, that on or before September first, two thousand four, the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. The state may, in lieu of paying its bill for fiscal year ending March thirty-first, two thousand five, pay a lesser amount during fiscal year ending March thirty-first, two thousand five which shall be the

entire bill for the fiscal year ending on March thirty-first, two thousand five, calculated pursuant to section three hundred twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization".

b-1. If the state makes the payment provided for in subdivision b of this section, the state shall pay during fiscal year ending March thirty-first, two thousand six an amount determined by the comptroller by adding the following two amounts together:

(1) the state's entire bill for the fiscal year ending March thirty-first, two thousand six, calculated pursuant to section three hundred twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to section three hundred sixteen-d of this article, if applicable; and

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to this section.

c. The remaining amortized payments shall be due and payable each subsequent fiscal year during the amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization," subject to the following:

(1) on or before August first, two thousand four in addition to advising with respect to the amount due for the current year billing, the comptroller shall advise the state of the total amount due and be authorized to accept pre-payment in full of said amount for the fiscal year ending March thirty-first, two thousand five.

(2) on or before each subsequent August first during the amortization period, in addition to the amount due for the current year billing and for the payment of the annual amortized installment, the comptroller shall advise the state of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid for that fiscal year.

§ 316-d. Amortization of a portion of the state's contribution bills

for fiscal year ending March thirty-first, two thousand six. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions pursuant to this section, then, on the basis of the annual actuarial valuation made as of April first, two thousand four as provided for in this chapter, the comptroller shall determine the annual amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that the state is permitted to pay on an amortized basis) required to be paid pursuant to section three hundred twenty-three-a of this article for the fiscal year ending March thirty-first, two thousand six. The amount by which the contribution amount with respect to fiscal year ending March thirty-first, two thousand six exceeds nine and one-half percent of the estimated pensionable salary base for fiscal year ending March thirty-first, two thousand six shall be the "amount eligible for amortization." The "amount eligible for amortization" shall be amortized over a ten-year period at eight percent interest per annum, with the first of ten equal payments payable during fiscal year ending March thirty-first, two thousand seven, provided, however, that on or before September first, two thousand five the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the unpaid balance of the amounts eligible for amortization of all employers which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. The state may, in lieu of paying its bill for the fiscal year ending March thirty-first, two thousand six, pay a lesser amount during the fiscal year ending March thirty-first, two thousand six which shall be determined by the comptroller by adding the following two amounts together:

(1) the entire bill for the fiscal year ending on March thirty-first, two thousand six, calculated pursuant to section three hundred twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization" determined pursuant to subdivision a of this section; and

(2) the first annual installment of the "amount eligible for

amortization" determined pursuant to section three hundred sixteen-c of this title, if applicable.

c. If the state makes the payment provided for in subdivision b of this section, the state shall pay during the fiscal year ending March thirty-first, two thousand seven an amount determined by the comptroller by adding the following three amounts together:

(1) the state's entire bill for the fiscal year ending March thirty-first, two thousand seven, calculated pursuant to section three hundred twenty-three-a of this article (without reference to this section);

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of this section; and

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section three hundred sixteen-c of this title, if applicable.

d. The remaining amortized payments determined pursuant to section three hundred sixteen-c of this title and pursuant to this section shall be due and payable each subsequent fiscal year during the applicable amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization" determined pursuant to both such section subject to the following:

(1) on or before August first, two thousand five in addition to advising with respect to the amount due for the current year billing and for the payment of the amortized annual installments determined pursuant to section three hundred sixteen-c of this title and pursuant to this section, the comptroller shall advise the state of the total amount due and be authorized to accept pre-payment in full of said amount for the fiscal year ending March thirty-first, two thousand six.

(2) on or before each subsequent August first during the amortization period, in addition to the amount due for the current year billing and for the payment of the annual amortized installment, the comptroller shall advise the state of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid for that fiscal year.

§ 317. Annual appropriation by participating employers. a. On or before the fifteenth day of November, nineteen hundred eighty-nine and of each succeeding year, the comptroller shall determine the amount which each participating employer is required to pay to the police and fire retirement system to discharge its obligations thereto for the fiscal year of the retirement system which ends on March thirty-first of nineteen hundred ninety and of each succeeding calendar year on account of its employees who are members of this system. The comptroller shall submit to the fiscal officer of each of such employer a statement of the amount so payable.

This amount shall consist of the amount deemed necessary to provide for payment in full of (i) all estimated obligations of each participating employer for the current fiscal year of the retirement systems and (ii) any additional obligation, plus interest on such amount, for fiscal years preceding the current fiscal year. If as a result of the amount determined to be paid for any fiscal year, a participating employer overpaid its actual obligation to the retirement system for that year, the amount to be determined by the comptroller for the next succeeding November fifteenth shall reflect the amount of the overpayment, plus interest as defined in section three hundred sixteen of this article on such amount, as a reduction in the amount otherwise required to be paid by such participating employer.

b. Each participating employer annually shall appropriate a sum sufficient to pay such amount. In the event the comptroller's statement is not received before annual appropriations are made by such employer, a sum estimated by the comptroller to be sufficient for such purpose shall be included with such annual appropriations.

c. Payment of the amount specified in the comptroller's statement shall be made by a participating employer within seventy-eight days after the receipt of such statement; provided, however, that in no case shall any participating employer be required to make this payment before February first of the calendar year next succeeding the calendar year in

which such statement is received. The comptroller is authorized to provide for and accept pre-payment.

d. If payment of the full amount of such obligations is not made by the date required by subdivision c of this section, interest at a rate determined in accordance with the provisions of section three hundred sixteen of this article shall commence to run against the unpaid balance thereof on the first day after the date required by said subdivision c.

e. The comptroller shall have full power and authority to bring suit in the supreme court against any participating employer to recover any sum, payment of which is not made as herein required. While any such sum shall remain due and unpaid he may refuse to audit any claim for funds due to such employer from the state.

§ 317-a. Amortization of amounts outstanding. a. On or before September first, nineteen hundred eighty-nine on the basis of the annual actuarial valuation and appraisal procedure provided for in this article, the comptroller shall determine the annual amounts that, had this section not been enacted, would have been required to be paid into the pension accumulation fund and the New York state public employees' group life insurance plan, as appropriate, from the participating employers for all obligations including unpaid amounts for the retirement incentive program and payments for any other benefit funded on other than an annual basis of participating employers to the retirement system not discharged prior to such date, for fiscal years ending March thirty-first, nineteen hundred eighty-eight and March thirty-first, nineteen hundred eighty-nine. Such amounts shall include interest, as defined in section three hundred sixteen of this article, through the fifteenth day of December, nineteen hundred eighty-nine. The sum of such amounts shall be called the "amount to be amortized".

b. The amount to be amortized shall be paid into the pension accumulation fund and the New York state public employees' group life insurance plan, as appropriate, according to a schedule of equal annual installments during any years remaining in the amortization period. The

"amortization period" shall be seventeen years. The first payment shall be payable by December fifteenth, nineteen hundred eighty-nine.

c. The amount of the annual payment to be made in any subsequent fiscal year shall be the amount that would be required to pay in full, in equal annual installments over the remainder of the amortization period, any unpaid balance of the amount to be amortized and interest on such unpaid balance computed at eight and three-quarters percent per annum.

d. An amount sufficient to provide for such payment shall be included in the next annual budget for each participating employer. The amounts due shall be paid on December fifteenth of each year during the amortization period.

e. The state comptroller is directed to promulgate regulations to permit the pre-payment of the amounts outstanding. Such regulation shall provide that:

(1) On or before November fifteenth, nineteen hundred eighty-nine, in addition to the amount due for the current year billing and for the payment of the amortized annual installment, the comptroller shall furnish the total amount due and be authorized to accept pre-payment in full of said amount by December fifteenth, nineteen hundred eighty-nine.

(2) On or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installment, the comptroller shall furnish the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by December fifteenth of that year.

§ 317-b. Amortization of a portion of the bills for participating employers for the two thousand four--two thousand five fiscal year. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions, then, on or about October fifteenth, two thousand three, on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance,

deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that a participating employer is permitted to pay on an amortized basis) of the annual contribution for a participating employer pursuant to section three hundred twenty-three-a of this article due for the fiscal year ending March thirty-first, two thousand five, as of December fifteenth, two thousand four. The amount by which such contribution exceeds seven percent of the estimated pensionable salary base for the fiscal year ending March thirty-first, two thousand five shall be the "amount eligible for amortization". The "amount eligible for amortization" may be amortized over a ten-year period at eight percent interest per annum, with the first of ten equal payments payable on February first, two thousand six, provided, however, that on or before September first, two thousand four the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. A participating employer, may, in lieu of paying its entire February first, two thousand five bill, pay a lesser amount on February first, two thousand five which shall be the entire February first, two thousand five bill, calculated pursuant to section three hundred twenty-three-a of this article (without reference to this section) less the "amount eligible for amortization".

b-1. A participating employer making a payment pursuant to subdivision b of this section shall pay on February first, two thousand six an amount determined by the comptroller by adding the following two amounts together:

(1) the entire February first, two thousand six bill, calculated pursuant to section twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to section three hundred seventeen-c of this article, if applicable; and

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to this section.

c. The remaining amortized payments shall be due and payable on February first of each year during the amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization", subject to the following:

(1) on or before November fifteenth, two thousand four in addition to the amount due for the current year billing, the comptroller shall advise each participating employer of the total amount due and be authorized to accept pre-payment in full of said amount by February first, two thousand five.

(2) on or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installment, the comptroller shall advise each participating employer of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by February first of the succeeding year.

§ 317-c. Amortization of a portion of the bills for participating employers for the two thousand five--two thousand six fiscal year. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions pursuant to this section, then, on or about October fifteenth, two thousand four, on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that a participating employer is permitted to pay on an amortized basis) of the annual contribution for a participating employer pursuant to section twenty-three-a of this article due for the fiscal year ending March thirty-first, two thousand six. The amount by which such contribution exceeds nine and one-half percent of the estimated pensionable salary base for the fiscal year ending March thirty-first, two thousand six shall be the "amount eligible for amortization". An amount up to the "amount eligible for amortization" may be amortized over a ten-year period at eight percent

interest per annum, with the first of ten equal payments payable on February first, two thousand seven, provided, however, that on or before September first, two thousand five the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. A participating employer, may, in lieu of paying its entire February first, two thousand six bill, pay a lesser amount on February first, two thousand six which shall be determined by the comptroller by adding the following two amounts together:

(1) the entire February first, two thousand six bill, calculated pursuant to section twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to subdivision a of this section; and

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section three hundred seventeen-b of this article, if applicable.

c. A participating employer making a payment pursuant to subdivision b of this section shall pay on February first, two thousand seven an amount determined by the comptroller by adding the following three amounts together:

(1) the entire February first, two thousand seven bill, calculated pursuant to section three hundred twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to section three hundred seventeen-d of this article, if applicable;

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of this section; and

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section three hundred seventeen-b of this article, if applicable.

d. Amortized payments determined pursuant to section three hundred seventeen-b and pursuant to this section shall be due and payable on

February first of each year during the applicable amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization" determined pursuant to both such sections subject to the following:

(1) on or before November fifteenth, two thousand five in addition to the amount due for the current year billing and for the payment of the amortized annual installment determined pursuant to section three hundred seventeen-b and pursuant to this section, the comptroller shall advise the participating employer of the total amount due and be authorized to accept pre-payment in full of said amount by February first, two thousand six.

(2) on or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installments, the comptroller shall advise the participating employer of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by February first of the succeeding year.

§ 317-d. Amortization of a portion of the bills for participating employers for the two thousand six--two thousand seven fiscal year. a. If the comptroller, in his or her discretion, decides to permit amortization of employer contributions pursuant to this section, then, on or about October fifteenth, two thousand five, on the basis of the annual actuarial valuation provided for in this chapter, the comptroller shall determine the amount (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that a participating employer is permitted to pay on an amortized basis) of the annual contribution for a participating employer pursuant to section twenty-three-a of this article due for the fiscal year ending March thirty-first, two thousand seven. The amount by which such contribution exceeds ten and one-half percent of the estimated pensionable salary base for the fiscal year ending March thirty-first, two thousand seven shall be the "amount eligible for amortization". An amount up to the "amount eligible for amortization" may be amortized over a ten-year period at eight percent

interest per annum, with the first of ten equal payments payable on February first, two thousand eight, provided, however, that on or before September first, two thousand six, the comptroller, in his or her discretion, may establish a fixed rate of interest per annum to be applied to the amounts eligible for amortization of all employers, which more closely approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers.

b. A participating employer, may, in lieu of paying its entire February first, two thousand seven bill, pay a lesser amount on February first, two thousand seven which shall be determined by the comptroller by adding the following three amounts together:

(1) the entire February first, two thousand seven bill, calculated pursuant to section twenty-three-a of this article (without reference to this section), less the "amount eligible for amortization" determined pursuant to subdivision a of this section;

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section three hundred seventeen-c of this article, if applicable; and

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section three hundred seventeen-b of this article, if applicable.

c. A participating employer making a payment pursuant to subdivision b of this section shall pay on February first, two thousand eight an amount determined by the comptroller by adding the following four amounts together:

(1) the entire February first, two thousand eight bill, calculated pursuant to section three hundred twenty-three-a of this article (without reference to this section);

(2) the first annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of this section;

(3) the second annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section three hundred seventeen-c of this article, if applicable; and

(4) the third annual installment of the "amount eligible for amortization" determined pursuant to subdivision a of section three

hundred seventeen-b of this article, if applicable.

d. Amortized payments determined pursuant to sections three hundred seventeen-b, three hundred seventeen-c and pursuant to this section shall be due and payable on February first of each year during the applicable amortization period. The comptroller shall have the authority to permit the pre-payment of the remaining balance of the "amount eligible for amortization" determined pursuant to both such sections subject to the following:

(1) on or before November fifteenth, two thousand six in addition to the amount due for the current year billing and for the payment of the amortized annual installment determined pursuant to section three hundred seventeen-b, three hundred seventeen-c and pursuant to this section, the comptroller shall advise the participating employer of the total amount due and be authorized to accept pre-payment in full of said amount by February first, two thousand seven.

(2) on or before each November fifteenth thereafter, in addition to the amount due for the current year billing and for the payment of the annual amortized installments, the comptroller shall advise the participating employer of the total amount still outstanding and be authorized to accept the pre-payment of any balance remaining to be paid by February first of the succeeding year.

§ 318. Guaranty. a. The latest employers of the different members shall be obligated for:

1. Regular interest charges payable, and special interest, if any, and
2. The creation and maintenance of reserves in the pension accumulation fund, and
3. The maintenance of annuity reserves and pensions reserves, and
4. The payment of all pensions, annuities, retirement allowances, refunds and any other benefits, and

5. The expenses of the police and fire retirement system, as provided for or granted under the provisions of this article. In the case of employer contributions required to be made for prior service allowed pursuant to paragraph three of subdivision b of section three hundred forty-one of this article, the provisions of such paragraph three shall govern.

b. Except as otherwise provided pursuant to this article, all income, interest and dividends derived from deposits and investments authorized by this article shall be used for the payment of such obligations.

§ 319. Filing of documents with the retirement system. Whenever a statute requires that a document be filed with the state comptroller, as administrative head of the New York state and local police and fire retirement system, within a prescribed period of time or by a specified date, and such document has been mailed to the comptroller or the retirement system by United States Postal Service certified mail, return receipt requested, the document shall be deemed filed on the date of mailing. Notwithstanding this provision, no document shall be deemed filed on the date of mailing unless it is actually received by the retirement system as a result of such mailing.

§ 319-a. Employer contributions for the two thousand ten - two thousand eleven fiscal year and subsequent fiscal years. a. In addition to the definitions in section three hundred two of this article, when used in this section:

(1) "Amortizing employer" shall mean an employer that elects to amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand ten - two thousand eleven fiscal year, or any subsequent fiscal year, pursuant to the system graded contribution rate regardless of whether the employer has subsequently paid in full all such amortized amounts, and that does not elect to amortize as an alternative amortizing employer for the two thousand thirteen - two thousand fourteen fiscal year.

(1-a) "Alternative amortizing employer" shall mean a county, city,

town or village that, on a form prepared by the comptroller, elects to and does amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand thirteen - two thousand fourteen fiscal year pursuant to the alternative system graded contribution rate, regardless of whether the employer has subsequently paid in full all such amortized amounts.

(2) "Amount eligible for amortization" for a given fiscal year shall mean the amount by which an employer's actuarial contribution for such fiscal year exceeds the employer's graded contribution for the same fiscal year, less any amount from the employer contribution reserve fund applied to reduce the employer's payment to the retirement system for the fiscal year, provided, however, that if the employer's average actuarial contribution rate for the fiscal year is less than seventeen and one-half percent, then the amount eligible for amortization shall be zero.

(3) "Employer's actuarial contribution" for a given fiscal year shall mean an employer's annual bill for such fiscal year exclusive of the deficiency contributions and payments on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(4) "Employer's annual bill" shall mean for a given fiscal year the sum of the following amounts: (i) an employer's normal contributions for the fiscal year determined in accordance with paragraph one of subdivision b of section three hundred twenty-three of this article and the comprehensive structural reform program implemented pursuant to subdivision b of section three hundred twenty-three-a of this article, including the provisions of subdivision b of section three hundred twenty-three-a of this article relating to the required minimum annual contribution of four and one-half percent of pensionable salaries; (ii) the employer's deficiency contributions and administration contributions for the fiscal year determined in accordance with paragraphs two and three of subdivision b of section three hundred twenty-three of this article; and (iii) any payments by the employer due in the fiscal year on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(5) "Employer's average actuarial contribution rate" for a given

fiscal year shall mean an employer's actuarial contribution for such fiscal year divided by the employer's payroll for the previous fiscal year.

(6) "Employer contribution reserve fund" or "fund" shall mean the employer contribution reserve fund established pursuant to subdivision e of this section.

(7) "Employer's graded contribution" for a given fiscal year shall mean the amount determined by applying the employer's graded contribution rate or the alternative amortizing employer's graded contribution rate for such fiscal year to an employer's payroll for the previous fiscal year.

(8) "Employer's graded contribution rate" for a given fiscal year shall mean (i) the system graded contribution rate for such fiscal year, or (ii) in the case of an individual employer for which a graded contribution rate has been determined pursuant to paragraph three of subdivision c of this section, the graded contribution rate for the individual employer for such fiscal year.

(9) "Employer's graded payment" for a given fiscal year shall mean the amount by which an employer's graded contribution for such fiscal year exceeds the employer's actuarial contribution for the same fiscal year.

(10) "Prior amortization" shall mean with respect to a given fiscal year any payment due in such fiscal year on account of an obligation from a prior fiscal year that an employer is permitted to pay to the retirement system on an amortized basis.

(11) "System average actuarial contribution rate" for a given fiscal year shall mean the sum of all employers' actuarial contributions for such fiscal year, divided by the sum of all employers' payroll for the previous fiscal year.

(12) "System graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to paragraph one or two of subdivision c of this section.

(13) "Alternative system graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to paragraph one or two of subdivision c-1 of this section.

b. Notwithstanding the provisions of this chapter or any other law to the contrary, the comptroller, in his or her discretion, shall have authority to implement this section. If the comptroller elects to implement this section, the provisions of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand ten, and for subsequent fiscal years. If the comptroller, within his or her discretion, elects to implement the alternative system graded contribution rate as provided by subdivision c-1 of this section, the provisions of paragraph one-a of subdivision d of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand thirteen, and for subsequent fiscal years.

c. For each fiscal year to which the provisions of this section apply, the comptroller shall determine a graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand ten - two thousand eleven fiscal year the system graded contribution rate shall be seventeen and one-half percent.

(2) For the two thousand eleven - two thousand twelve fiscal year, and subsequent fiscal years, system graded contribution rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and exceeds the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year plus one percentage point, provided however, that in no event shall the system graded contribution rate be less than seventeen and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and either equals the system graded contribution rate for the immediately preceding fiscal year or exceeds the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year,

provided, however, that in no event shall the system graded contribution rate be less than seventeen and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than seventeen and one-half percent and greater than the system graded contribution rate for the immediately preceding fiscal year, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year minus one percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the system graded contribution rate for the immediately preceding fiscal year or is smaller than the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

(3) The comptroller shall determine a graded contribution rate for individual employers as provided in this paragraph. The graded contribution rate for an individual employer is the product of the system's graded contribution rate with the ratio of the employer's average actuarial contribution rate to the system's average actuarial contribution rate, not to exceed one hundred percent of the system's graded contribution rate.

c-1. For each fiscal year to which the provisions of this section apply, the comptroller shall determine an alternative system graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand thirteen - two thousand fourteen fiscal year and the two thousand fourteen - two thousand fifteen fiscal year, the alternative system graded contribution rate shall be twenty percent.

(2) For the two thousand fifteen - two thousand sixteen fiscal year and the subsequent fiscal years, alternative system graded contribution

rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and exceeds the alternative system graded contribution rate for the immediately preceding fiscal year by more than one-half percentage point, then the alternative system graded contribution rate for the given fiscal year shall equal the alternative system graded contribution rate for the immediately preceding fiscal year plus one-half percentage point, provided, however, that in no event shall the alternative system graded contribution rate be less than seventeen and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and either equals the alternative system graded contribution rate for the immediately preceding fiscal year or exceeds the alternative system graded contribution rate for the immediately preceding fiscal year by one-half percentage point or less, then the alternative system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year, provided, however, that in no event shall the alternative system graded contribution rate be less than seventeen and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than seventeen and one-half percent and greater than the alternative system graded contribution rate for the immediately preceding fiscal year, then the alternative system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the alternative system graded contribution rate for the immediately preceding fiscal year by more than one-half percentage point, then the alternative system graded contribution rate for the given fiscal year shall equal the alternative system graded contribution rate for the immediately preceding fiscal year minus one-half percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the alternative system graded contribution rate for the immediately preceding fiscal year or is smaller than the alternative system graded contribution rate for the immediately

preceding fiscal year by one-half percentage point or less, then the alternative system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

d. (1) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the employer graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a ten-year period, with interest on the unpaid balance at a rate determined by the comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, and with the first installment due in the immediately succeeding fiscal year. Provided however that, notwithstanding any provision of law to the contrary and at the sole discretion of the director of the division of the budget, the state as an amortizing employer may prepay to the retirement system the total amount of principal due for any such annual installment or installments for a given fiscal year prior to the expiration of the ten-year amortization period. In the event the state elects to make such prepayment, the director of the division of budget must identify the fiscal year or years for which the total principal amount due for the annual installment is being prepaid. In any fiscal year for which the director of the division of the budget identifies such prepayment is being made, the state (i) shall not be required to make a payment of principal to the retirement system for such fiscal year, and (ii) shall pay to the retirement system annual interest on the remaining principal balance at the rate originally set by the

comptroller when the state first elected to amortize in accordance with this paragraph. Nothing contained herein shall permit the state to extend the amortization period originally established in accordance with this paragraph beyond the original ten-year amortization period.

(1-a) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the alternative system graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a twelve year period, with interest on the unpaid balance at a rate determined by the comptroller which shall be the twelve year interpolated rate based on the most recently published yield to maturity of a ten year and twenty year U.S. Treasury Security plus one hundred basis points.

(2) For any given fiscal year for which the employer graded contribution rate equals or exceeds an amortizing employer's average actuarial contribution rate, the amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order

starting with oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(2-a) For any given fiscal year for which the alternative system graded contribution rate equals or exceeds an alternative amortizing employer's average actuarial contribution rate, the alternative amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the alternative amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the alternative amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order starting with oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(3) Nothing in this subdivision shall be construed as prohibiting an employer from pre-paying any prior amortization.

e. (1) Notwithstanding any law to the contrary, there shall be maintained separate and apart from the other funds of the retirement

system an employer contribution reserve fund, the assets of which shall not be used or invested in a manner contrary to the provisions of this subdivision. The fund shall consist of all employer contributions required to be deposited into the fund pursuant to subdivision d of this section. Within such fund there shall be a separate account for each employer making such contributions and payments.

(2) For any given fiscal year for which (i) the system actuarial contribution rate exceeds seventeen and one-half percent of payroll as of the end of the previous fiscal year, and (ii) for which an employer's average actuarial contribution rate exceeds the employer's graded contribution rate or the alternative employer's graded contribution rate, the balance in the employer's account within such fund shall be applied to reduce the employer's payment to the retirement system for such fiscal year in an amount not to exceed the difference between the employer's actuarial contribution and the employer's graded contribution for the fiscal year.

(3) Notwithstanding the provisions of paragraph two of this subdivision, if at the close of any given fiscal year the balance of an employer's account within the fund exceeds the employer's actuarial contribution for the previous fiscal year, no graded payment shall be required or allowed.

(4) The assets of the fund shall be invested in only the following types of investments:

(i) obligations of the United States of America or in obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America or in obligations of the state of New York;

(ii) general obligation bonds and notes of any state other than this state, provided that such bonds and notes receive the highest rating of at least one independent rating agency;

(iii) obligations of, or instruments issued by or fully guaranteed as to principal and interest by, any agency or instrumentality of the United States acting pursuant to a grant of authority from the congress of the United States, including, but not limited to, any federal home loan bank or banks, the Tennessee valley authority, the federal national mortgage association, the federal home loan mortgage corporation and the United States postal service;

(iv) certificate of deposits that are fully secured by the issuer by depositing with the comptroller direct or indirect obligations of the United States or its agencies or a letter of credit issued by the Federal Home Loan Bank; and

(v) obligations of any corporation organized under the laws of any state in the United States maturing within two hundred seventy days provided that such obligations receive the highest rating of two independent rating services designated by the comptroller.

(5) At the close of each fiscal year, the amount of interest and earnings attributable to each employer's account shall be computed by the actuary and certified to the comptroller, who shall thereupon credit each employer's account in accordance therewith.

(6) The assets of the fund shall be excluded from the annual valuation of the assets and liabilities of the funds of the retirement system required by section three hundred eleven of this title. The assets of the fund shall not finance increases in pension benefits.

f. (1) An amortizing employer may elect to terminate participation in the contribution stabilization program provided that such employer shall have paid in full all such prior year amortization amounts including interest as determined by the comptroller. Furthermore, any amortizing employer that has terminated participation in the contribution stabilization program may re-enter the program in a year in which the employer is eligible to amortize and their employer contribution reserve fund has been depleted.

(2) An alternative amortizing employer may elect to terminate participation in the alternative contribution stabilization program provided that such employer shall have paid in full all such prior year amortization amounts including interest as determined by the comptroller. Furthermore, any alternative amortizing employer that has terminated participation in the alternative contribution stabilization program may not re-enter the alternative contribution stabilization program; provided, however, such employer may enter the regular contribution stabilization program as set forth in paragraph one of this subdivision.

(3) In order to terminate participation in the contribution stabilization or alternative contribution stabilization program, such

employer must file an election on a form prescribed by the comptroller. Such election is subject to review and approval by the comptroller.

(4) Termination shall take effect for the fiscal year billing cycle following the fiscal year of approval. An employer who has been approved to terminate from the contribution stabilization or alternative contribution stabilization program pursuant to this section shall not be required to make a graded payment starting in the following fiscal year billing cycle.

(5) In the event an employer in the contribution stabilization program or alternative contribution stabilization program terminates participation pursuant to this section, any such balance in their employer contribution reserve fund shall be applied to the employer's annual bill in the maximum amount permitted under paragraph two of subdivision e of this section, for the following fiscal year and continue to be applied to future annual bills until the reserve fund is depleted.

TITLE 4

FUNDS OF THE SYSTEM; MEMBERS' CONTRIBUTIONS AND EMPLOYERS' CONTRIBUTIONS

Section 320. The funds of the policemen's and firemen's retirement system.

321. Members' contributions and their use; annuity savings fund.

322. Members' contributions and their use; annuity reserve fund.

323. Employers' contributions and their use; pension accumulation fund.

323-a. Statement of intent.

324. Employers' contributions and their use; pension reserve fund.

§ 320. The funds of the police and fire retirement system. The funds hereby created are as follows:

(a) the police and fire annuity savings fund, hereinafter referred to

as the annuity savings fund;

(b) the police and fire annuity reserve fund, hereinafter referred to as the annuity reserve fund;

(c) the fire and police pension accumulation fund, hereinafter referred to as the pension accumulation fund;

(d) the police and fire pension reserve fund, hereinafter referred to as the pension reserve fund.

§ 321. Members' contributions and their use; annuity savings fund. a. The annuity savings funds shall be the fund in which shall be accumulated all contributions made by members to provide for their annuities and their withdrawal allowances.

b. Upon the basis of tables adopted by the comptroller and regular interest, the actuary shall determine the rate of contribution for each member. Such rate shall be computed as the constant proportion of annual compensation which, when deducted from each payment of such member's prospective earnable compensation until he shall attain age sixty, would provide, at that time, an annuity equal to one-one hundred fortieth of his final average salary for each year of member service for which he shall be entitled to credit. This method of computation of a member's rate of contribution shall be appropriately modified in case of a member for whom such a rate is otherwise fixed pursuant to any other section of this article.

c. The rate of contribution of a member who is over age fifty-nine, at the time of his last becoming a member, shall be the same as if his age were fifty-nine.

d. The comptroller shall certify each member's rate of contribution to his employer. Each employer by whom a member is employed shall deduct from the compensation of such member, on each payroll and for every payroll period, the proportion of such member's compensation based upon his rate of contribution. In determining the amount earnable by a member in a payroll period, the comptroller may consider the rate of annual compensation payable to such member on the first day thereof as

continuing throughout such period. If an employee was not a member on the first day of a payroll period, deductions from compensation for such period may be omitted. No deductions shall be made from the compensation of a member over age sixty who has credit for at least thirty-five years of government service and who elects to discontinue his contributions to the annuity savings fund. The contributions herein provided shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby.

e. The chief fiscal officer of each employer promptly shall certify and file a copy of each payroll with the comptroller. Each such payroll and certification shall be in a form approved by the comptroller. The comptroller, in his discretion, may waive the requirements of certification and filing as to any particular payroll.

f. Deductions from the compensation of a member shall constitute his contributions. Such contributions shall be remitted promptly to the comptroller. The comptroller shall deposit them in the annuity savings fund and they shall be credited, together with regular interest thereon, and special interest, if any, to the member's individual account in such fund. Regular interest upon accumulated contributions in the annuity savings fund, and special interest, if any, shall be transferred to such fund from the pension accumulation fund at the close of each fiscal year.

g. If a member shall have deposited in the annuity savings fund of the New York state employees' retirement system, before June thirteenth, nineteen hundred thirty-nine, amounts in addition to the contributions then required by law, the same shall be included in his accumulated contributions. Interest thereon, however, shall be credited only at such rate as in the opinion of the comptroller is the prevailing rate of interest allowed on savings bank deposits. A member, at any time, may withdraw such additional amounts and such interest thereon, in whole or in part. The total of such withdrawn amounts may be redeposited by a single payment at any time. If such additional amounts be not withdrawn before retirement, they thereupon shall be used to purchase an annuity on account of such member. Such annuity shall be in addition to the

retirement allowance to which he would otherwise be entitled. It shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this article.

h. Valuation of maintenance in certain cases.

1. A member of the police and fire retirement system, whose retirement contributions to the New York state employees' retirement system were determined by fixing the value of his or her maintenance at one-half the cash compensation received by him or her and whose contributions were subsequently reduced by the fixing of a lower value for the same maintenance theretofore furnished, may elect to have his or her contributions computed on the basis of his or her gross compensation as established prior to such reduction in value of maintenance, provided that:

(a) His retirement contributions prior to October first, nineteen hundred forty-three, were based on such higher value of maintenance as determined by the comptroller and his retirement contributions after such date were reduced because of the fixation of such lower value of maintenance, or

(b) His retirement contributions prior to April sixteenth, nineteen hundred forty-six, were based on such higher value of maintenance as determined by the board of supervisors of the county of Monroe and his retirement contributions after such date were reduced because of the fixation of such lower value of maintenance, or

(c) He was employed by the county of Westchester on March twenty-ninth, nineteen hundred forty-eight, his retirement contributions prior to March thirty-first, nineteen hundred forty-seven, were based on such higher value of maintenance and his retirement contributions after January first, nineteen hundred forty-eight, were reduced because of the fixation of such lower value of maintenance, or

(cc) His retirement contributions prior to the initial fixation of the value of his maintenance pursuant to section two hundred one or section two hundred five of the county law, were based on such higher value of maintenance as determined by the comptroller and his retirement contributions after the date of such fixation were reduced because of the fixation of such lower value of maintenance, or

(d) He was employed by the county of Onondaga on April twelfth, nineteen hundred forty-nine, his retirement contributions prior to December fifteenth, nineteen hundred forty-seven, were based on such higher value of maintenance and his retirement contributions after December fifteenth, nineteen hundred forty-seven, were reduced because of the fixation of such lower value of maintenance, or

(e) He was or shall have been employed in a county or city tuberculosis hospital which was or shall have been transferred to the state pursuant to section twenty-two hundred sixty-eight of the public health law, his retirement contributions prior to such transfer were or shall have been based on such higher value of maintenance and his retirement contributions after such transfer were or shall have been reduced because of the fixation of such lower value of maintenance.

2. Upon filing such election and paying the additional contributions required thereby, such member shall be entitled to have his pension, retirement allowance or other rights and privileges in the retirement system computed in accordance with such gross compensation, provided that:

(a) In a case covered by subparagraph (a) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before April first, nineteen hundred forty-six, and such additional contributions are paid from and after October first, nineteen hundred forty-three, or

(b) In a case covered by subparagraph (b) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before January first, nineteen hundred forty-eight, and such additional contributions are paid from and after April sixteenth, nineteen hundred forty-six, or

(c) In a case covered by subparagraph (c) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before January first, nineteen hundred forty-nine, and such additional contributions are paid from and after March thirty-first, nineteen hundred forty-seven, or

(cc) In a case covered by subparagraph (cc) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before October first, nineteen hundred fifty-five, and such additional

contributions are paid from and after the date of the initial fixation of the value of his maintenance pursuant to such subparagraph, or

(d) In a case covered by subparagraph (d) or paragraph one of this subdivision h, such election was so filed with the county auditor on or before November first, nineteen hundred forty-nine, and such additional contributions are paid from and after December fifteenth, nineteen hundred forty-seven, or

(e) In a case covered by subparagraph (e) of paragraph one of this subdivision h, such election is so filed with the comptroller on or before April first, nineteen hundred fifty, or within one year after the date of such transfer, whichever is later, and such additional contributions are paid from and after the date of such transfer.

3. The gross compensation of such member shall be the amount established on the basis of such higher value of maintenance. Contributions based on such gross compensation shall continue to be made until such member retires or until such election is terminated as provided in paragraph four of this subdivision h.

4. An election made pursuant to paragraph one of this subdivision h shall be terminated if and when the compensation of the member, including cash and the current value of maintenance, shall equal the gross compensation of such member as fixed on the basis of the higher value of maintenance described in such paragraph one, provided that:

(a) In a case covered by subparagraph (a) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the director of the budget pursuant to section forty-two of the civil service law, or

(b) In a case covered by subparagraph (b) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county of Monroe, or

(c) In a case covered by subparagraph (c) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county of Westchester, or

(cc) In a case covered by subparagraph (cc) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county, or

(d) In a case covered by subparagraph (d) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of Onondaga county, or

(e) In a case covered by subparagraph (e) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the director of the budget pursuant to section one hundred thirty-five of the civil service law.

i. Additional contributions.

1. Any member of the police and fire retirement system, upon forms prescribed and furnished by the comptroller, may elect to make additional contributions at the rate of fifty per centum of his or her rate of normal contribution for the purpose of purchasing additional annuity.

2. Additional contributions made pursuant to this subdivision i shall be included in the member's accumulated contributions, except that in computing a retirement allowance:

(a) For ordinary disability pursuant to section three hundred sixty-two of this article, or

(b) In any other case under this article where the inclusion of such additional contributions in the computation of an annuity would have the effect of decreasing the amount of a pension that otherwise would be payable,

such additional contributions shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity which otherwise would be payable in such case. Such additional annuity shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this article.

3. One year or more after the filing thereof, a member may withdraw his election to make additional contributions pursuant to this subdivision i. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller.

j. Where a member's rate of contribution is reduced because his or her employer contributes toward pensions-providing-for-increased-take-home-pay pursuant to section three hundred seventy-a of this article, such member may by written notice duly acknowledged and filed with the comptroller within one year after such reduction or within one year after he or she last became a member, whichever is later, elect to waive such reduction. One year or more after the filing thereof, a member may withdraw any such waiver by written notice duly acknowledged and filed with the comptroller. Where a member makes an election to waive such reduction, he or she shall contribute to the police and fire retirement system as otherwise provided in this article.

k. A member in the employ of the state who retires on or after April first, nineteen hundred seventy-three may elect to withdraw his excess contributions at the time of his retirement; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to those who retire prior to July first, nineteen hundred seventy-four. Such election shall be duly executed and filed with the comptroller. The term excess contributions shall mean accumulated contributions in excess of the amount thereof necessary to provide the required pension or retirement allowance specified under the plan applicable to the member. In no case shall such withdrawal of contributions result in an increase in the pension benefit. The provisions of this subdivision shall not apply to a member of the state police in collective negotiating units established pursuant to article fourteen of the civil service law.

l. Voluntary contributions. 1. Any member of the police and fire retirement system who is not otherwise required by law to make contributions may elect to make voluntary contributions for the purpose of purchasing additional annuity.

2. Voluntary contributions made pursuant to this subdivision shall be included in the member's accumulated contributions, except that in computing a retirement allowance:

(a) For ordinary disability pursuant to section three hundred sixty-two of this chapter, or

(b) In any other case under this chapter where the inclusion of such voluntary contributions in the computation of an annuity would have the effect of decreasing the amount of a pension that otherwise would be payable,

such voluntary contributions shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity which otherwise would be payable in such case. Such additional annuity shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this chapter.

3. Any member electing to make such voluntary contributions shall file such election with the comptroller on a form prescribed for such purpose by the comptroller. Such election shall specify a rate of contribution in a whole number percentage no greater than ten percent of the member's salary, such contributions to be remitted to the comptroller by regular payroll deductions from the compensation of the member. The rate of contribution shall be subject to change by the member only once in any twelve month period. These contributions may be withdrawn by the member in accordance with section three hundred fifty-one of this chapter only once in any twelve month period.

4. Any member electing to make such voluntary contributions may withdraw his election to make such contributions at any time and thereby terminate such contributions, provided, however, that such termination of voluntary contributions shall preclude the member from again electing to make such contributions for a period of twelve months.

5. Any member electing to make such voluntary contributions pursuant to this subdivision shall be deemed by such act to have: (a) withdrawn his election to make additional contributions pursuant to subdivisions i and j of this section, and (b) made all his excess contributions in accordance with this subdivision.

§ 322. Members' contributions and their use; annuity reserve fund. a.

The annuity reserve fund shall be the fund from which shall be paid all annuities and all benefits in lieu of annuities, payable pursuant to this article.

b. Upon retirement, a member's accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund. They shall then be used to provide an annuity, the amount of which shall be the actuarial equivalent of such accumulated contributions on the basis of regular interest and the tables adopted by the comptroller pursuant to this article.

c. The comptroller from time to time shall transfer from the pension accumulation fund to the annuity reserve fund, such amounts as are necessary under this article.

d. If a member, retired for any reason, returns to active police or fire service and again becomes a member of the police and fire retirement system, his or her annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund.

§ 323. Employers' contributions and their use; pension accumulation fund. a. Except as otherwise provided pursuant to this article, the pension accumulation fund shall be the fund in which shall be accumulated:

1. All contributions made by employers, and
2. All income received from the investments of the police and fire retirement system, and
3. All monies received from all other sources and which are not required to be credited to any other fund.

b. Each employer shall make three contributions annually. They shall be known as the normal contribution, the deficiency contribution, and the administration contribution. The rates thereof shall be computed by

the actuary.

1. Normal contribution. The rate of such contribution shall be applied to the members' annual compensation earned during the previous fiscal year. Such rate shall be a uniform and constant rate per centum of annual compensation. When applied to the compensation of the average new entrant during the remaining period of his or her membership, such rate shall be computed to be sufficient to provide all the benefits, other than those on account of prior service, granted by this article and which are payable from funds contributed to the pension accumulation fund.

Such rate shall be computed each year by means of an actuarial valuation as prescribed in section three hundred eleven of this article and as authorized by section three hundred twenty-three-a of this title.

2. Deficiency contribution.

(a) In the case of employers who were participating in the state employees' retirement system on March thirty-first, nineteen hundred sixty-seven, the rate of such contribution shall continue to be the rate determined for such participating employer pursuant to law. Such rate may be varied, however, if an adjustment is necessitated by reason of the allowance of additional prior service credits.

(b) In the case of an employer who elects to participate in the police and fire retirement system on or after April first, nineteen hundred sixty-seven and before March thirty-first, nineteen hundred ninety-nine, an initial actuarial valuation shall be made to determine the accrued liability of such employer by reason of the prior service of those of its employees who are members of the retirement system. The rate of deficiency contribution for such employer shall then be determined. Such rate shall be that proportion of the total annual compensation of such employees as is equivalent to four per centum of such accrued liability. Such rate shall be applied to the employer's payroll of members, as used in the annual valuation. The cost of making such initial valuation shall be assessed against and paid by such employer.

Notwithstanding the above, for employers who commence participation in

the retirement system on or after April first, nineteen hundred ninety-nine, the accrued liability shall be amortized in equal annual installments over a twenty-five year period. With respect to such employers the cost of making such initial valuation shall be assessed against and paid by the employer. The provisions of subdivisions c, d and e of this section shall not apply to employers who commence participation in the retirement system on or after April first, nineteen hundred ninety-nine.

(c) The amount of each annual deficiency contribution payable by every employer shall be at least three per centum greater than the amount for the preceding year.

(d) The comptroller shall approve the discontinuance of the state's deficiency contribution on account of members employed by it when:

(1) The total amount in the pension accumulation fund on account of all members, and

(2) The present value of future deficiency contributions still to be paid by other employers, and

(3) The present value of future normal contributions, on the basis of the rate of normal contribution then in effect, shall equal the then present value of the total liability of such fund on the basis of the tables then in use.

(e) Unless previously discontinued, or unless hereafter discontinued pursuant to other provisions of law, the deficiency contribution of a participating employer shall be discontinued when the total amount of deficiency contributions paid by such employer at least equals or shall hereafter equal such percentum of its initial accrued liability computed by the actuary as shall equal that percentum of the state's initial accrued liability paid by deficiency contributions during the period equal to the period last determined by the actuary as the deficiency payment period. Nothing herein contained shall be deemed to give any participating employer any valid claim or cause of action for refund or credit for any sum or sums paid or to be paid for fiscal years prior to and including the fiscal year ending March thirty-first, nineteen hundred sixty-six nor to excuse any participating employer from the payment of any contributions for such fiscal years.

3. Administration contribution.

(a) The expenses of the retirement system, including an amount allocated to amortize over a period of thirty years, with interest, the cost of construction of the retirement system building, and the cost of maintenance of such building, for each fiscal year shall be determined at the close of each such year. The ratio of such expenses to the total compensation of all members, as used in the actuarial valuation, shall be the rate of such administration contribution. Such rate shall be applied to each employer's payroll of members, as used in the annual valuation.

(b) All such expenses shall be paid out of the pension accumulation fund which shall be reimbursed through administration contributions and other monies received from employers pursuant to this article.

(c) Notwithstanding any other provision of this subdivision or any other law, the administrative contribution for a year, as determined pursuant to paragraph one of subdivision b of this section, shall be paid from the pension accumulation fund if payment from such fund will not affect the normal contribution for such year.

c. Additional contributions shall be made in accordance therewith by employers obligated to contribute to the retirement system pursuant to any other section of this article.

d. When a pension or a pension-providing-for-increased-take-home-pay, if any, becomes payable to or on account of any member, a reserve, in an amount computed by the actuary to be necessary to provide the pension or pension-providing-for-increased-take-home-pay, if any, granted in each such case, shall be transferred from the pension accumulation fund to the pension reserve fund.

e. Whenever the comptroller, upon recommendation by the actuary, shall determine that it is necessary to increase the reserves held in the annuity reserve fund or the pension reserve fund, he may direct that the amount so needed shall be transferred thereto from the pension accumulation fund.

f. The amount of regular interest which is to be credited to the annuity savings fund, the annuity reserve fund and the pension reserve

fund, and the amount of special interest, if any, which shall be credited to the annuity savings accounts in the annuity savings fund, shall be determined after the close of each fiscal year. Each such amount thereupon shall be transferred from the pension accumulation fund to each such fund.

§ 323-a. Statement of intent. a. This legislation is intended to strengthen the long-term fiscal health of the retirement system, to reduce the volatility of contribution rates and to provide budget certainty for participating employers by addressing current structural problems with respect to the calculation and payment of employer contributions by means of a comprehensive reform program. There is a need to address structural problems in the current billing cycles for the state and local governments with respect to their annual contributions to the retirement system. The state currently pays its contributions on the basis of estimates, which are subject to adjustment at a later date (with interest, if applicable) on the basis of subsequent calculations of the required contribution. Local governments must currently adopt budgets based on estimates of the required contributions, but then make payment of the full amount of the actual contributions that are finally billed on the basis of subsequent calculations of the required contributions. In addition, dramatic fluctuations in the performance of the investment markets have produced unprecedented volatility in employer contribution rates. These rate fluctuations have been exacerbated by the lack of a reasonable minimum payment by employers in years where investment performance was strong and employer rates were low. In order to enhance the continuing ability of the retirement system to provide services and benefits for the more than nine hundred forty thousand members and retirees and their beneficiaries, this section provides for measures to (1) enhance the long-term fiscal health of the retirement system, (2) facilitate the planning and budgeting of state and participating employer contributions, and (3) ease the volatility of retirement system employer contribution rates in the future.

b. Notwithstanding the provisions of this chapter or any other

provision of law to the contrary, the comptroller shall have the authority, in his or her discretion, to implement a comprehensive structural reform program, which shall consist of all of the following measures:

1. revision of the schedule pertaining to the valuation, billing and payment of contributions by the state and participating employers under which the valuation of the assets and liabilities of the retirement system undertaken on the first day of a fiscal year shall be used to determine the contribution rates to be applied to the pensionable salaries of the state and participating employers earned during such fiscal year for the payment of contributions due for the next succeeding fiscal year; and

2. requiring a minimum annual contribution from the state and every participating employer (exclusive of payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that the state or participating employer is permitted to pay on an amortized basis) equal to four and one-half percent of pensionable salaries. Effective immediately upon implementation by the comptroller of the comprehensive structural reform program set forth in this section, and in all subsequent years, participating employers shall pay either the required annual contribution determined under the revised schedule pertaining to the valuation, billing and payment of contributions pursuant to paragraph one of this subdivision, or the required minimum annual contribution of four and one-half percent of pensionable salaries, whichever is greater; and

3. notwithstanding any provision of subdivision a of section three hundred sixteen of this article to the contrary, upon the comptroller's implementation of the measures set forth in this subdivision, all contributions payable by the state and participating employers under the valuation, billing and payment schedule implemented under paragraph one of this subdivision, including the minimum contribution required by paragraph two of this subdivision, must be paid in full by the state on

or before March first of the then current fiscal year and by participating employers on the date set forth in subdivision c of section three hundred seventeen of this article.

§ 324. Employers' contributions and their use; pension reserve fund.

a. The pension reserve fund shall be the fund from which shall be paid all pensions and all other benefits, except ordinary death benefits, payable wholly out of contributions made to the pension accumulation fund pursuant to this article.

b. When a pension or a pension-providing-for-increased-take-home-pay becomes payable to or on account of any member, the amount of the reserve computed by the actuary to be necessary to provide the pension and the pension-providing-for-increased-take-home-pay, if any, payable out of the pension reserve fund shall be transferred to the pension reserve fund from the pension accumulation fund.

c. The comptroller shall transfer from the pension accumulation fund to the pension reserve fund, from time to time, such amounts as are necessary under this article.

d. The amount of regular interest to be credited to the monies held in the pension reserve fund shall be determined after the close of each fiscal year. Such amount thereupon shall be transferred from the pension accumulation fund to the pension reserve fund.

e. If a member, retired for any reason, returns to active police or fire service and again becomes a member of the police and fire retirement system, his or her pension reserve shall be transferred from the pension reserve fund to the pension accumulation fund.

f. If the pension of a beneficiary is reduced for any reason, the amount of such reduction shall be transferred from the pension reserve fund to the pension accumulation fund during that period that such reduction is in effect.

TITLE 5
**PARTICIPATION IN SYSTEM BY POLITICAL SUBDIVISIONS
AND OTHER ORGANIZATIONS**

Section 330. Participation by municipalities.

331. Participation by public or quasi-public organizations.

333. Election of certain optional retirement benefits by participating employers.

334. Reporting of service and salary information.

§ 330. Participation by municipalities. a. Every municipality (exclusive of those maintaining a local pension system for all its police officers and firefighters) employing police officers and firefighters must participate in the police and fire retirement system, and such participation shall be irrevocable.

b. A municipality maintaining a local pension system for its police officers and firefighters may elect to participate in the police and fire retirement system upon the petition of sixty per centum of the members of the local pension system for police officers and firefighters. Such election shall be exercised by the adoption of a resolution approved by its local legislative body and any other body or officer required by law to approve resolution of such local legislative body. Upon the filing of a certified copy of such resolution with the comptroller, such election shall be irrevocable, and the municipality shall become a participating employer. As of the date such participation is approved:

1. The operation of such local pension system shall be discontinued.

2. The existing pensioners and annuitants of such local pension system shall be continued and paid at their existing rates by the police and fire retirement system.

3. Any cash and securities to the credit of such local pension system shall be transferred to the police and fire retirement system.

4. The trustees or other administrative head of such local pension system shall certify the proportion, if any, of the funds of such system that represents the accumulated contributions of the members and the individual shares of the members therein. Such shares shall be credited to the respective annuity savings accounts of such members in this retirement system. The balance of the funds so transferred to the police and fire retirement system shall be offset against the liability on account of existing pensioners, annuitants and active members. The resulting liability so determined shall be the basis for the rate of deficiency contribution of such county, city, town or village as determined pursuant to section twenty-three of this article.

c. The county of Monroe, by resolution legally adopted by its governing body filed with and approved by the comptroller, may elect to have its fire chief-airport, firefighter-airport, and fire captain-airport personnel in those titles designated by such governing body, become eligible to participate in the New York state and local police and fire retirement system. Upon such adoption, such county, except as specifically provided in this article to the contrary, shall thereafter be treated as a participating employer. Such resolution shall provide for the payment by the county of any costs incurred for past service credit as well as future cost occasioned by the county's election under this subdivision; provided articles fourteen and fifteen member contributions previously made by members of the New York state and local employees' retirement system who will become members of the New York state and local police and fire retirement system under this section shall be transferred to the New York state and local police and fire retirement system and used to offset the amount of past service costs which would otherwise result. Further, the past service costs, less such accumulated tiers 3 and 4 member contributions, shall be paid over a ten year period at the rates of interest used in the actuarial valuations covering the ten year period.

d. A participating employer's election of any retirement benefit for members of the state and local police and fire retirement system shall apply either to its police officers or its firefighters, as the case may

be.

§ 331. Participation by public or quasi-public organizations. a. Any public or quasi-public organization which heretofore joined the New York state and local employees' retirement system, on behalf of its police officers and firefighters, shall on and after April first, nineteen hundred sixty-seven, participate, on behalf of such police officers and firefighters, in the police and fire retirement system pursuant to the provisions of this article.

b. On and after April first, nineteen hundred sixty-seven, any public or quasi-public organization created wholly or partly or deriving its powers by the legislature of the state and which organization employs police officers and firefighters engaged in service to the public, by resolution legally adopted by its governing body and approved by the comptroller, may elect to have its police officers and firefighters become eligible to participate in the New York state and local police and fire retirement system. Acceptance of the officers and employees of such an employer for membership in the New York state and local police and fire retirement system shall be optional with the comptroller. If he or she shall approve their participation, such organization, except as specifically provided in this article to the contrary, shall thereafter be treated as a participating employer. Notwithstanding the foregoing provisions of this subdivision, The Long Island Rail Road Company, upon its election filed with the comptroller, shall participate in the New York state and local police and fire retirement system with respect to LIRR police officers as defined in paragraph two of subdivision a of section three hundred eighty-nine of this article who are referred to in paragraph three of subdivision b or in paragraph one of subdivision c of section three hundred forty of this article, their benefits to be as provided in or pursuant to such section three hundred eighty-nine, provided that such election may only be made subsequent to the latest date of the enactment of federal legislation or receipt of assurance or relief from the relevant federal agency or agencies for all of the following: removal of such LIRR police officers from coverage under the Federal Employers' Liability Act and the federal Railway Labor Act,

removal of such LIRR police officers from coverage under the federal Railroad Retirement Act and the federal Railroad Unemployment Insurance Act and exemption for such LIRR police officers and The Long Island Railroad Company from liability either for taxes under the federal Railroad Retirement Tax Act or the federal Railroad Unemployment Repayment Tax, and further provided that the authority for such election shall expire and be null and void if each such enactment or receipt is not effected on or before June fifteenth, nineteen hundred ninety-six.

c. The officers and employees of such organization shall be credited with such periods of prior service as shall be certified by their employer for service rendered to it, or its predecessor, or the state, or in any other capacity approved by such employer and the comptroller. Service for such employer after the date on which it commences to participate in the police and fire retirement system and on account of which such employer pays contributions shall be considered as member service. An officer or employee of such employer who, as of the date he or she is so approved for membership in the police and fire retirement system, is already a member thereof, shall not have his or her total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such employer on account of such officer or employee for any prior service credit and any such previous credit. Except as otherwise provided in this article, a police officer or firefighter of such employer who, by reason of his or her service, is a member of any other governmental retirement system shall not participate in the police and fire retirement system on that part of his or her compensation so covered. The term "governmental retirement system," as used in this subdivision, shall include any retirement system wholly or partly maintained by this state, by a municipality of this state, by another state or political subdivision thereof, by the United States government, or by any foreign country or political subdivision thereof.

The provision in subdivision b of this section limiting participation in the New York state police and fire retirement system by reason of membership in another governmental retirement system shall not diminish

or in any other way affect the prior or continual membership in the New York state police and fire retirement system, or any rights or benefits heretofore or hereafter arising therefrom, of any officer or employee of a public or quasi-public organization who (1) is in the service of such employer at the time this act takes effect, or was in such service prior thereto, and (2) by reason of such service is or was a member of any retirement system maintained by the United States government.

d. An agreement, made by such an employer pursuant to this section, to contribute on account of its officers and employees shall be irrevocable. In the event that such employer for any reason becomes financially unable to make the contributions required on account of its officers and employees, it shall be deemed to be in default. A certificate to such effect thereupon shall be sent by the comptroller to the employer and to the state superintendent of financial services. Every member of the police and fire retirement system, who was an officer or employee of such employer at the time of default, upon demand made within ninety days thereafter, shall be entitled to discontinue his or her membership in the police and fire retirement system and to a refund of his or her accumulated contributions. As of a date ninety days following the date of such certificate of default, the actuary of the police and fire retirement system, by actuarial valuation, shall determine the amount of the reserves held on account of each active member and pensioner of such employer. He or she shall credit to each such member and pensioner the amount of reserve so held. In the event such an active member does not discontinue his or her membership and thus become entitled to the refund of his or her accumulated contributions, the reserve so credited, together with the amount of his or her accumulated contributions shall be used to provide him or her a paid up deferred annuity beginning at age sixty. The reserve of each pensioner shall be used in providing such part of his or her existing pension as the reserve so held will provide, which pension, together with his or her annuity, shall thereafter be payable to him or her. The rights and privileges of both active members and pensioners of such employer shall thereupon terminate except as to the payment of the deferred annuities so provided for the previous active members and the annuities and the pensions, or parts thereof provided for the

pensioners.

e. Notwithstanding anything to the contrary, the police and fire retirement system shall not be liable for the payment of any pensions or other benefits on account of the officers, employees or pensioners of any employer under this section for which reserves have not been previously created from funds contributed by such employer or its officers or employees for such benefits. This provision shall not apply to any municipality which elected to participate in the retirement system under former section seventy-five-a of this law prior to July first, nineteen hundred forty-eight.

§ 333. Election of certain optional retirement benefits by participating employers. By the adoption, filing and approval, where required, of a resolution in the manner provided by section three hundred thirty or section three hundred thirty-one of this article, a participating employer may elect to provide for its own employees the benefit provided for persons in the employ of the state listed in subdivision j of section three hundred forty-one and may elect to provide the benefits provided for employees of participating employers in section three hundred sixty-b and section three hundred seventy-five-i of this article.

Such election may be for a limited period if such limitation is included in the resolution, upon the expiration of which such election will be deemed revoked.

§ 334. Reporting of service and salary information. The comptroller shall adopt rules and regulations, which shall have the force and effect of law, for the reporting of service and salary information for all employees of participating employers. The chief fiscal officer of each participating employer, or if there be no chief fiscal officer, the officer exercising similar duties, shall file the report with the comptroller, in such form and at such times as may be prescribed in the rules and regulations. The refusal or willful neglect of such chief

fiscal officer or other official to file the report as herein prescribed shall be a violation and shall subject the officer so refusing or neglecting to a penalty of five dollars per day for each day's delay beyond seven days, to be paid on demand of the comptroller.

TITLE 6

RIGHT TO MEMBERSHIP, SERVICE CREDIT AND TRANSFERS BETWEEN RETIREMENT SYSTEMS

Section 340. Membership of the police and fire retirement system.

341. Allowances for service.

342. Payments for credit for service for the federal government or certain public authorities or corporations.

343. Transfer of members between systems.

§ 340. Membership of the police and fire retirement system. a. After the effective date of this article, each person who becomes a member of the New York state and local police and fire retirement system shall file a duly executed application with the comptroller. Such application shall contain:

1. A detailed statement of all such person's service, and

2. A statement that he consents and agrees to membership and to the contributions prescribed by this article.

b. Membership in the police and fire retirement system shall be mandatory for the following:

1. Police officers and firefighters now employed or hereafter appointed by an employer.

2. Police officers and firefighters now employed or hereafter appointed by a participating employer in a position in the classified civil service, other than in a position in the exempt class, and who is not eligible to become a member of a local pension system. The employers

of such police officers and firefighters shall pay into the pension accumulation fund the amount required to pay the accrued liability on account of such police officers and firefighters, as computed by the actuary. Such payments shall be made in such installments as the comptroller shall require.

* 3. LIRR police officers as defined in paragraph two of subdivision a of section three hundred eighty-nine of this article who become such on or after the effective date of section three hundred eighty-nine of this article.

* NB Effective the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company

4. Fire chief-airport, firefighters-airport, and fire captains-airport, employed by Monroe county who enter such employment after their employer has elected participation in the New York state and local police and fire retirement system.

5. Aircraft rescue firefighters employed by the Niagara frontier transportation authority who enter such employment after their employer has elected participation in the New York state and local police and fire retirement system.

c. The following may become members of the police and fire retirement system:

* 1. Police officers and firefighters in the service of a public or quasi-public organization if their employer has elected to participate as provided in section three hundred thirty-one of this article.

* NB Effective until the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company

* 1. Police officers and firefighters in the service of a public or quasi-public organization, if their employer has elected to participate as provided in section three hundred thirty-one of this article, including each LIRR police officer as defined in paragraph two of subdivision a of section three hundred eighty-nine of this article who is such on the effective date of such section three hundred eighty-nine and who files an election with the comptroller in accordance with

subdivision a of this section within ninety days after the effective date of section three hundred eighty-nine of this article. Such an election by a LIRR police officer shall be effective as of such effective date and shall be a waiver of any and all rights such officer may have had to benefits under any pension plan sponsored by The Long Island Rail Road Company other than the retirement plan provided for in section three hundred eighty-nine of this article.

* NB Effective the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company

2. Officers and employees of the federal government who have at least five years of member service credit at the time they become federal officers or employees may continue as contributing members. The provisions of this paragraph shall not affect the membership of officers and employees of the federal government heretofore commenced or continued hereunder, provided, however, that all memberships hereunder shall be conditioned upon the receipt by the police and fire retirement system of the payments required by section three hundred forty-two of this article.

2-a. Fire chief-airport, firefighters-airport, and fire captains-airport who are employed with the county of Monroe at the time that their employer elects participation in the New York state and local police and fire retirement system. Such employees shall have one year from the date the employer elects to provide such participation to make application for membership in such retirement system and upon filing such an election shall be transferred to the New York state and local police and fire retirement system notwithstanding the provisions of section three hundred forty-three of this title. Upon request for a transfer of credit, the reserve on such member's benefits shall be determined by the actuary and shall be transferred from the appropriate fund of the first system to the appropriate fund of the second system. Monroe county employees transferred pursuant to this paragraph must serve one year under the new plan before they may receive a greater service retirement benefit than they would have received had they not transferred to such new plan.

2-b. Aircraft rescue firefighters employed by the Niagara frontier transportation authority at the time that their employer elects participation in the New York state and local police and fire retirement system. Such employees shall have one year from the date the employer elects to provide such participation to make application for membership in such retirement system and upon filing such an election shall be transferred to the New York state and local police and fire retirement system notwithstanding the provisions of section three hundred forty-three of this title. Upon request for a transfer of credit, the reserve on such member's benefits shall be determined by the actuary and shall be transferred from the appropriate fund of the first system to the appropriate fund of the second system. Notwithstanding the foregoing provisions of this paragraph, the portion of the reserves from the first system that consists of member contributions and applicable interest shall not be refunded and shall not be considered excess contributions, and such portion shall be used toward payment of any past service costs arising under this section. Niagara frontier transportation authority employees transferred pursuant to this paragraph must serve one year under the new plan before they may receive a greater service retirement benefit than they would have received had they not transferred to such new plan.

3. Notwithstanding any inconsistent provision of subdivision e of this section, or of this chapter or of any other law, an officer or employee in the service of the state or of a participating employer who, at the time of entering such service, was or is entitled to benefits by any other pension or retirement system maintained by the state or a political subdivision thereof, provided such benefits, exclusive of any annuity based solely on his or her own contributions and interest thereon, are suspended during his or her active membership in the police and fire retirement system. He or she shall contribute to the retirement system as a new member.

d. A member, discontinued from police or fire service because the office in which he was employed was transferred to:

1. The federal government, or

2. Any public authority or public corporation organized pursuant to the laws of this state and which is not a participating employer, may file a written election with the comptroller stating that he or she elects to continue as a member. Such election shall be subject to the approval of the comptroller and such continuance shall be conditioned upon the receipt by the police and fire retirement system of the payments required by section three hundred forty-two of this article.

e. Any person who is or may be entitled to benefits by any other law providing for pensions and annuities for civil service employees, wholly or partly at the expense of the state or of a political subdivision thereof, shall not be a member of the police and fire retirement system. This provision, however, shall not:

1. Affect the membership of any person who was a member of the New York state and local employees' retirement system on April first, nineteen hundred sixty-seven and who became a member of the police and fire retirement system after such date.

2. Exclude from membership any person paid a salary from two or more sources, each of which entitles him to membership in a retirement system.

3. Exclude from membership any person holding office pursuant to appointment by the governor by and with the advice and consent of the senate, who at the time of such appointment would otherwise be entitled to a retirement allowance wholly or partly at the expense of the state or of a political subdivision thereof.

4. Exclude from membership any person who is or may become eligible for old-age and survivors insurance benefits pursuant to the provisions of this chapter except where his position was or is excluded from eligibility for membership in this retirement system in order to extend old-age and survivors insurance coverage to it and such eligibility shall not have been restored.

f. Termination of membership. Membership in the police and fire retirement system shall cease upon the occurrence of any one of the following conditions:

1. When seven years have elapsed since a member has performed police and/or fire service provided, however, that no part of such seven year period shall run during such time as a member, with at least five years of member service credit, shall serve as an officer or employee of the federal government or the United Nations or other international organizations of which the United States of America is a member.

2. When a member shall die.

3. When a member shall retire.

4. When a member shall have withdrawn all or part of his accumulated contributions. Acceptance by a member of a refund of excess contributions pursuant to the provisions of any section of this article or borrowing from his fund in the retirement system pursuant to section three hundred fifty of this article shall not terminate his membership. Acceptance of such a refund of excess contributions by a member entitled to a vested retirement allowance pursuant to section three hundred seventy-six of this chapter shall not terminate his right to such vested retirement allowance nor shall acceptance by him of a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution terminate his right to such vested retirement allowance.

5. When a member who has not attained eligibility for a retirement allowance or a vested retirement allowance has discontinued service with the state or a participating employer for a period of at least thirty consecutive days and has requested termination of membership on a form prepared by the comptroller for such purpose by filing such form with the comptroller. If such person subsequently rejoins the retirement system within five years from the date he discontinued service with the

state or a participating employer, such person shall be entitled to every retirement right, benefit and privilege which would have been available to him had he reentered employment on the date of such discontinuance from service.

g. As to any class of persons whose compensation is only partly paid by the state or a participating employer or who are serving on a temporary or other than per annum basis, the comptroller in his discretion, may:

1. Deny the right to become members, or
2. Make optional the individual entrance of those whose membership otherwise would be mandatory.

§ 341. Allowances for service. a. Generally. Subject to all provisions of law appertaining thereto and to such reasonable rules and regulations as the comptroller shall adopt or amend in pursuance thereof, he shall determine and may modify allowances for service and shall issue prior service certificates and certificates for service in war after world war I. The comptroller, however, shall not allow more than one year of credit for all service rendered in any calendar year.

b. Allowable service. Only the following types of service shall be allowable in computing service credits:

1. Police or fire service.
2. Government service.
3. Prior city and county service rendered in a city of the state or in a county within the boundaries of such city, if such city has a pension system allowing credit for prior state and county service.
4. Prior service rendered to an employer before the latter became a participating employer. Such credit shall be allowable immediately upon

such employer's becoming a participating employer. The employer for whom the member is working at the time such prior service credit is allowed, shall pay the contribution required to be made by an employer on account of such credit.

5. Service rendered to the state or a participating employer while a member of the state employees retirement system.

6. Civil service in any capacity as an officer or employee of the federal government, or military duty in the armed forces of the federal government and not otherwise creditable, rendered or performed by a member prior to the time he or she last became a member. The allowance of credit for such service shall be conditioned upon the receipt by the police and fire retirement system of all the payments required to be made on account thereof by section three hundred forty-two of this article.

7. Civil service rendered as an officer or employee of the federal government as provided in subdivision d of section three hundred forty of this article. The allowance of credit for such service shall be conditioned upon the receipt by the retirement system of all the payments required to be made on account thereof by section three hundred forty-two of this article. Except as so provided, employment by the federal government shall not entitle a person to contribute to the police and fire retirement system during the period of such employment.

8. Any member may obtain credit for any allowable service:

(a) For which he made contributions, regardless of whether such contributions were returned to him when he left such service, or

(b) Rendered by him while not a member of any retirement system that is actuarially sound and of which the state or municipality thereof is a contributor,

provided he makes the contributions required by this article for such credit and renders at least two years of member service after he last became a member.

No credit shall be allowed for service if, but for the member's

failure to avail himself of the privilege of transfer within the time and in the manner provided in section three hundred forty-three of this article, credit for such service could have been obtained upon transfer from another retirement system pursuant to such section.

c. Purchase of previous member service credit.

1. A member who has not previously been a member may purchase credit at any time for all allowable member service; provided, however, that a member joining the system pursuant to paragraph one of subdivision c of section three hundred forty of this article shall not be permitted to purchase credit for, or otherwise be allowed credit for the previous service upon which his retirement or pension from another pension or retirement system is or would be based. In order to purchase credit, which may be purchased pursuant to this paragraph, the member shall pay into the annuity savings fund, either in a lump sum or in installments, a sum equal to the amount which would have been in such fund to his credit had he actually been a member contributing thereto during the entire period of such previous member service. If such payment be made in installments, the same shall be paid within a period no greater than the number of months of such member service.

2. A member who, after a previous membership, withdrew all or part of his accumulated contributions shall be credited with all allowable service rendered prior to such withdrawal, provided he:

(a) Renders at least two years of member service after his last withdrawal, and

(b) Redeposits such withdrawn amount in the annuity savings fund, either in a lump sum or in installments; provided, however, that a member joining the police and fire retirement system pursuant to paragraph three of subdivision c of section three hundred forty of this article shall not be permitted to purchase credit for, or otherwise be allowed credit for the previous service upon which his or her retirement or pension from another pension or retirement system is or would be based. If such payment be made in installments, the same shall be paid within a period no greater than the number of months of member service lost by such withdrawal.

d. Credit allowable only if paid for. In the event that a member retires or that any benefit becomes payable because of his membership in the retirement system prior to the completion of all of the payments required to be made by him as a condition precedent to his obtaining credit for member service, the amount of his retirement allowance or such other benefits shall be based only on:

1. The service rendered by him since he last became a member of the retirement system and for which contributions have been paid by him, and

2. Any additional service, all the conditions precedent to the crediting of which have been completely fulfilled by him. However, if the full amount of the payments required to be made by the member is not paid to the retirement system, the amount of service credit shall be proportional to the total amount of the payments made.

e. Waiver of membership requirement in certain cases. In the case of a person in the employ of a participating employer, the requirements in sections three hundred sixty and three hundred seventy-five of this article that a member must have credit for one or more years of service as a member shall not apply if:

1. Such person became a member within one year after his employer became a participating employer, and

2. He was in the service of such participating employer for the entire year previous to his retirement or death.

f. Restoration of credit in certain cases.

1. A member who has been discontinued from service through no fault of his own and who has withdrawn his accumulated contributions shall have his total service credit restored in full if:

- (a) He had less than twenty years of total service credit when he was so discontinued, and

- (b) He returns to service within ten years after such discontinuance,

and

(c) He redeposits the total amount so withdrawn by him and

(d) His employer elects to and does pay to the pension accumulation fund an amount equal to the reserve required to cover such restoration of credit.

2. Upon such return to service, such member shall contribute to the police and fire retirement system as a new member.

3. In the event such a member retires before his employer makes such payment, he may elect to receive his benefit immediately as if full service credit were allowable. He thereupon shall be entitled to receive the full amount of such benefit for such period as the same can be paid from the combined reserve available on his account in the annuity reserve fund and pension reserve fund. When his employer makes such payment, his benefit thereafter shall be continued from the reserve so paid.

4. The provisions of this subdivision f shall be controlling notwithstanding any provision in this article to the contrary.

g. Prior service credit and credit for service in war after world war I in certain cases. Allowable prior service credit and allowable credit for service in war after world war I shall be granted immediately to:

1. Any member who shall have rendered at least two years of service since he last became a member.

2. Any person who is in the service of a participating employer on the date it approves participation and who becomes a member within one year after such date.

The employer for whom the member is working at the time such prior service credit or credit for service in war after world war I is allowed, shall pay the contribution required to be made by an employer on account of such credit.

h. Prior service certificates and certificates for service in war

after world war I.

1. The comptroller shall issue a certificate, to be known as a prior service certificate, to each member entitled to prior service credit. Such certificate shall certify the amount of such credit which shall be allowed in computing any pension provided for by this article.

2. The comptroller, upon application, shall issue a certificate for service in war after world war I to each member entitled thereto. Such certificate shall certify to service in war after world war I allowable to such member.

3. The comptroller, upon application of a member at any time, or upon his own initiative within one year from the date of issuance of a prior service certificate or a certificate for service in war after world war I may modify any such certificate in accordance with the allowance for prior service or service in war after world war I credit to which the member is shown to be entitled.

4. A member's prior service certificate, certificate for service in war after world war I, or any such certificate as modified, shall become void upon the termination of his or her membership in the police and fire retirement system. Except as provided by subdivision d of section four hundred two of this article, resumption of membership after such termination shall be without credit for prior service or service in war after world war I.

i. Allowances during leaves of absence without pay.

1. Time during which a member is absent on leave without pay:

(a) Shall not be included in computing prior service.

(b) May be included in computing member service and final average salary only if the head of the department in which such member is employed and the comptroller allow such time for retirement purposes at the time such leave of absence is granted.

(c) Shall be included in computing member service and final average salary in case such a leave of absence was granted, during the period

from March first, nineteen hundred forty, until six months after the termination of world war II, to enable the member to enter the service of the federal government or its associated powers, or to engage in war work or defense industries only if:

(1) The fact that such service was rendered is established to the satisfaction of the comptroller, and

(2) Such member shall have notified the comptroller in writing, on or before July first, nineteen hundred forty-seven, or within one year after such leave of absence was granted, that he claims member service credit pursuant to the provisions of this subparagraph c, and

(3) Such member, within a period not greater than the number of months during which he was on leave of absence, shall pay into:

(aa) The annuity savings fund such amounts as would have been in such fund to his credit had he remained in the performance of his regular duties as a member at the same salary he was receiving when such leave of absence was granted, and

(bb) The pension accumulation fund such amounts as would have been in such fund had he remained in the performance of his regular duties. Such amounts shall be determined by the actuary and shall be sufficient to pay the contribution that the state or a participating employer would have paid for an ordinary death benefit and for that portion of the pension provided for in paragraph two of subdivision a or paragraph two of subdivision b of section three hundred seventy-five of this article for service during such period.

(d) Shall be included in computing member service and final average salary in case such a leave of absence commenced during the period from April first, nineteen hundred sixty-six through June thirtieth, nineteen hundred seventy-four, and was granted for a period of not more than two years to enable the member to perform services as a civilian officer or employee of the Federal government or one of its agencies or a contractor of the United States Agency for International Development engaged to perform the work of such agency, the United Nations, any other international organization of which the United States of America is a member, or a foreign government only if:

(1) The comptroller allows inclusion of such time for retirement purposes at the time such leave of absence is granted, and

(2) Payment during such leave of absence or within one year after the

end of such leave of absence is made by the employee into:

(aa) The annuity savings fund of contributions equal to the contributions which the member would have made during the period of such leave of absence had he been performing his regular duties, and

(bb) The pension accumulation fund of a further contribution equal to the contribution which his employer would have made on his behalf during the period of such leave of absence had he been performing his regular duties. The payments required by this item (bb) may be made on the member's behalf by the organization employing him during such leave of absence.

j. Allowance for unused sick leave for members in the employ of the state.

1. In addition to any other service credit to which he or she is entitled, a member who meets the requirements set forth in paragraphs two and three of this subdivision shall be granted one day of additional service credit for each day of accumulated unused sick leave which he or she has at time of retirement for service, but such credit shall not (a) exceed one hundred sixty-five days, (b) be considered in meeting any service or age requirements prescribed in this chapter, and (c) be considered in computing final average salary. However, for a member of the collective negotiating units established by article fourteen of the civil service law designated the security services negotiating unit, the security supervisors negotiating unit and effective on and after June twenty-seventh, two thousand seventeen, the agency police services unit such service credit limitation provided in subparagraph (a) of this paragraph shall not exceed two hundred days.

2. Such service retirement credit shall be granted only to members in the employ of the state, other than members of the state police in a collective negotiating unit defined in the certification of the public employment relations board dated December twenty-ninth, nineteen hundred seventy in case numbers C-0570 and C-0575 established pursuant to article fourteen of the civil service law, who prior to retirement were subject to a plan established by law, rule, regulation, written order or written policy which provided for the regular earning and accumulation

of sick leave, provided, however, that such service retirement credit shall be granted to members of the state police who are in the collective negotiating unit defined in the certification of the public employment relations board dated November twentieth, nineteen hundred eighty-one in case number C-2298 and in case number C-2299, and to such a member in the negotiating unit defined in such board's certification dated April second, nineteen hundred eighty-five, in case number C-2819 established pursuant to article fourteen of the civil service law, who retire on or after the first day of June, nineteen hundred eighty-five.

3. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to those retiring from service prior to July first, nineteen hundred seventy-four.

k. Credit for certain world war II service. 1. In addition to credit for military service as defined in paragraph one of subdivision thirty-one of section three hundred two of this chapter a member in the employ of the state, other than a member of the state police in collective negotiating units established pursuant to article fourteen of the civil service law, as of March thirty-first, nineteen hundred seventy, may obtain credit for military service as defined in paragraph two of subdivision thirty-one of section two of this chapter in accordance with the provisions of this subdivision.

2. To obtain such credit a member shall: (a) deposit in the annuity savings fund a sum equal to the product of his normal rate of contribution at time of entry into state service, his annual rate of compensation at that time, and the period of military service being claimed, with regular interest, and (b) deposit in the pension accumulation fund a sum equal to the product of the state's normal contribution rate at the time of the member's entry into such service, his annual rate of compensation at that time, and the period of military service being claimed, with regular interest. Such deposit must be made on or before March thirty-first, nineteen hundred seventy-two, provided, however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed, in

which case such payments must commence no later than March thirty-first, nineteen hundred seventy-two. If the full amount of such payments is not paid to the retirement system, the amount of service credited shall be proportional to the total amount of the payments made.

3. (a) A member who enters the employ of the state on or after April first, nineteen hundred seventy and prior to April first, nineteen hundred seventy-two shall have one year from his date of entry to make application and payment for such service in the manner specified above. The salary base for such an employee shall be his annual rate of compensation at the time of his entry into state service.

(b) A member who reenters the employ of the state on or after April first, nineteen hundred seventy and prior to April first, nineteen hundred seventy-two shall have one year from his date of reentry to make application and payment for such service in the manner specified above. The salary base for such payments shall be either the employee's (i) annual rate of compensation at the time of original entry into such service or (ii) his annual rate of compensation upon reentry into such service, whichever would result in the greatest contributions.

4. Such credit for military service shall not be used to increase a service retirement benefit if at the time of retirement such member (a) is retiring from service with less than ten years of total service credit, or (b) is retiring with less than three years of member service rendered subsequent to the date of last entry into state service; upon retirement as specified in (a) or (b), there shall be refunded to such member the amount of such deposit plus accrued interest exclusive of the amount deposited to the pension accumulation fund attributable to death and disability benefits.

5. For the purposes of this subdivision the member's normal rate of contribution in the case of an employee of the state who (a) enters service on or after the date that employee contributions were reduced pursuant to section seventy-a or that no employee contributions were required shall be based on the latest schedule of normal contribution rates in effect for employees of the state, and shall be set as if such schedule had been in effect at the time of his entry into state service,

or (b) transfers into the retirement system shall not be less than the rate the member would have had if all his service, exclusive of that being claimed pursuant to this subdivision, had been rendered as a member of the retirement system.

6. In no event shall credit be granted pursuant to this subdivision if credit is granted for the same period of time pursuant to other provisions of law.

7. Subject to the provisions of paragraph three of this subdivision no application for credit pursuant to the provisions of this subdivision shall be honored if made on or after April first, nineteen hundred seventy-two.

8. A member may direct, upon a form prepared by the comptroller, that his excess contributions be applied toward the payment required by this subdivision. The term excess contributions shall mean accumulated contributions in excess of the amount thereof required to provide a pension or retirement allowance. Appropriate transfers and credits to the annuity savings fund and the pension accumulation fund will be made in the manner set forth in the official regulation adopted by the comptroller for such purpose.

* 1. Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member eligible to purchase credit for previous service with a public employer pursuant to this section or section three hundred forty-two of this title or to purchase credit for military service pursuant to article twenty of this chapter, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into

such a payroll deduction agreement and who terminates employment prior to the completion of the payments required therein shall be credited with any service as to which such members shall have paid the contributions required under the terms of the agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service -- expires per ch. 627/2007 §22

§ 342. Payments for credit for service for the federal government or certain public authorities or corporations. a. The payments required by this section shall be made by:

1. Members who elect to continue their membership pursuant to subdivision d of section three hundred forty of this article even though their government service was discontinued because of the transfer of their offices to the federal government or to any public authority or corporation organized pursuant to the laws of this state, and which is not a participating employer.

2. Officers or employees of the federal government who are contributing members pursuant to paragraph two of subdivision c of section three hundred forty of this article.

3. Members who claim service credit pursuant to paragraph four of subdivision b of section three hundred forty-one of this article for federal service previously rendered by them.

b. Memberships pursuant to paragraph two of subdivision c of section three hundred forty of this article shall be conditioned upon the payment in regular monthly installments into:

1. The annuity savings fund of a proportion of the salary paid to the member in such employment computed upon his rate of contribution, and

2. The annuity savings fund of a sum computed to be sufficient to provide the full cost of the service retirement benefits to which such member could have become entitled as an incident of his membership and

which would have been payable from the pension reserve fund if he were in government service, and

3. The pension accumulation fund of a sum, computed upon the rate of contribution necessary to provide the full cost of all benefits, other than service retirement benefits, to which such member could have become entitled as an incident of his membership if he were in government service.

In the case of such a membership in the state employees' retirement system which was last begun or last resumed prior to March twenty-ninth, nineteen hundred forty-four and which now is continuing pursuant to such paragraph four of subdivision c of section three hundred forty of this article, and so long as federal service of such member shall continue hereafter without interruption, the member shall make only the payments required by former section fifty-two-c of the civil service law, as amended by chapter seven hundred ninety-four of the laws of nineteen hundred thirty-nine. Federal service covered by such former section fifty-two-c of the civil service law shall not, for the purposes of this paragraph, be deemed to have been interrupted by the rendition of service to the state immediately after such federal service and the return to such federal service not later than four months after the termination of such service to the state.

c. Membership pursuant to subdivision d of section three hundred forty of this article shall be conditioned upon the payment in regular monthly installments into:

1. The annuity savings fund of a proportion of the salary paid to the member in such employment computed upon his rate of contribution, and

2. The pension accumulation fund of a further proportion of such salary to cover the state contribution on his account computed upon the rate of contribution that would have been payable by the state in his behalf had he continued in government service. The payments required to be made by this paragraph two may be made by the member's employer in his behalf.

In the event the office in which a member was employed was transferred as provided in subdivision d of section three hundred forty of this article prior to January first, nineteen hundred thirty-three, such member shall be required to make only the payments provided for in paragraph one of this subdivision c.

d. The granting of service credit pursuant to paragraph four of subdivision b of section three hundred forty-one of this article shall be conditioned upon the payment, in a lump sum or in regular monthly installments, over a period no greater than the number of months of service for which such credit is being purchased, into:

1. The annuity savings fund of a sum equal to the amount that would have been in such fund to his credit if he had actually been a member contributing thereto during the entire period of such federal service, computed on the basis of his present salary, regular interest and tables as adopted by the comptroller, and

2. The annuity savings fund of a sum computed to be sufficient to provide the full cost of an annuity at retirement, equal to the pension and pension-providing-for-increased-take-home-pay, if any, which would be provided out of the pension reserve fund if such federal service had been government service, and

3. The pension accumulation fund of a sum, computed upon the rate of contribution necessary to provide the full cost of all benefits, other than service retirement benefits, to which he would have become entitled if such federal service had been government service.

e. The United State government may make the payments required to be made by paragraphs two and three of subdivision b or by paragraphs two and three of subdivision d of this section. The sums so paid by it shall be credited to the pension accumulation fund. Only to the extent that payments are so made by the United States government shall service credit purchased pursuant to this section be used in determining a member's pension for any type of service retirement benefit.

f. If a member is contributing pursuant to section three hundred seventy-one or three hundred seventy-one-a of this article and elects or has elected to pay for federal service under subdivisions b, c or d of this section, his payments into the annuity savings fund shall be computed in an amount sufficient to provide the full cost of an annuity at age fifty-five equal to the service retirement allowance he would receive at age fifty-five for such federal service under the provisions of section three hundred seventy-one or three hundred seventy-one-a had it been government service.

§ 343. Transfer of members between systems. a. Notwithstanding any other provision of law providing for transfers, any member of any retirement system maintained by the state or a municipality thereof, operating on a sound financial basis and subject to the supervision of the department of financial services of this state may transfer his or her membership pursuant to this section to the New York state and local employees' retirement system, the New York city board of education employees' retirement system, the New York state teachers' retirement system, the New York state and local police and fire retirement system or to the New York city employees' retirement system. Any member of the New York state and local police and fire retirement system may transfer his or her membership to any retirement system, other than the hospital retirement system, which is operating on a sound basis and is subject to the supervision of the department of financial services of this state. Any police officer employed by the metropolitan transportation authority who is a member of the MTA police twenty year retirement program of the metropolitan transportation authority defined benefit pension plan (hereinafter referred to in this section as the "MTA police retirement program") may transfer his or her membership in the New York state and local police and fire retirement system and/or the New York city police pension fund to the MTA police retirement program. Any police officer who was employed by the metropolitan transportation authority, the Long Island Railroad Company or the Metro-North Commuter Railroad Company and who is a member of the MTA police retirement program may transfer his or her membership in the MTA police retirement program to the New York state and local police and fire retirement system. Any transfer pursuant

to this section may be effectuated only if the member has accepted a position in another branch of the state or municipal service which would make it:

1. Impossible for him or her to continue in the retirement system of which he or she has been a member, and

2. Possible for him or her to participate in another such system.

Notwithstanding the foregoing provisions of this subdivision, any employee who would be eligible to avail himself or herself of the provisions of this section but for being on leave of absence status from a prior employment while in his or her present employment, shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section.

- b. 1. In order to effect such a transfer, a member must give notice to the administrative head of the retirement system of which he or she is a member, prior to his or her withdrawal therefrom, of his or her intention to enter such other retirement system within one year.

2. If a member of the New York city police pension fund is trying to effect a transfer from such pension fund to the MTA police retirement program, the member must give notice to the administrative head of the New York city police pension fund, prior to his or her withdrawal therefrom, of his or her intention to enter such other retirement system within one year or within one year of the effective date of this paragraph.

3. In the case of a person who has withdrawn from a retirement system and has been entitled to at least thirty years of total service credit in such system, however, such notice may be given within three years from the time of such withdrawal. In the case of a person who was a member of a retirement system, and who while under such status becomes a member of such second retirement system, and who has not withdrawn his or her contributions to the first such retirement system, any provisions of law notwithstanding, such notice may be given on or before June

thirtieth, nineteen hundred sixty-seven. A person so transferring from one retirement system to another shall be deemed to have been a member of the system to which he or she has transferred during the entire period of membership service credited to him or her in the system from which he or she has transferred. Such transferee, however, shall not receive more than three percent interest on his or her contributions and accumulated contributions unless he or she has continuously been a member in either the system from which or to which he or she is transferring since a date prior to July first, nineteen hundred forty-three. This shall not be construed to prevent a change in the interest rate to such member if the interest rate payable to other members of the system to which he or she has transferred is changed. Any member who heretofore transferred from one retirement system to another shall, commencing with the effective date of this subdivision, be entitled to the same rights, privileges and benefits, and shall be subject to the same obligations, as a transferee who hereafter transfers. He or she shall receive no credit for prior service, except as hereinafter provided. He or she shall be permitted to deposit in the second retirement system the total amount of his or her contributions withdrawn from the first retirement system. Upon such deposit within one year or within three years, or on or before June thirtieth, nineteen hundred sixty-seven, as the case may be, he or she or the administrative head of the system to which he or she desires to transfer, shall request the administrative head of the first retirement system to transfer to the second retirement system a credit on account of his or her membership in such system.

c. Upon the request for a transfer of credit, the reserve on such member's benefits, computed as though he had not discontinued membership, shall be determined by the actuary of the first system in the following manner:

1. The total present value of all benefits allowable under the retirement system as the result of contributions made or to be made by his employer shall be computed.

2. From such total present value there shall be deducted the present

value of the future contributions which would be payable by his employer on such member's account had he become a member of the retirement system, subsequent to its establishment, at the age at which he originally entered the service of his employer. The result so obtained shall be considered as the reserve on his account in the first retirement system.

d. Such reserve shall be transferred from the appropriate fund or funds of the first system to the appropriate fund or funds of the second system within one year from the date of the request for a transfer of credit. Such member, thereupon, shall be given such status and credited with such service in the second retirement system as he was allowed in the first retirement system. Such contributor, notwithstanding any other provision of law, shall on retirement after three years of member service in the second retirement system be entitled to a pension based on salary earned during member service in either retirement system, or in both retirement systems together, whichever may produce the greater pension pursuant to the statutory requirements of the second retirement system. No such contributor, however, shall be entitled, on retirement within three years of the date of his transfer, to a greater or lesser pension for such service rendered before his transfer than he would have received had he remained under the pension provisions of the first retirement system.

e. 1. A "New York city member," as defined in subdivision twenty of section two hundred forty-three of the military law, who shall transfer to another retirement system pursuant to this section shall be given credit, upon such transfer, for the period of military duty to which such member would have been entitled pursuant to such subdivision twenty if he had remained, until the time of death or retirement, in the retirement system from which he shall so transfer. The amount of reserves to be transferred under this section for such credit shall be computed in accordance with this section, shall include pension reserves for such military duty, and shall be credited by the retirement system to which the member shall transfer in accordance with the provisions of such system governing credit for service in world war II, and the city of New York, or the authority, by which such member is employed

immediately prior to the transfer, shall pay to the retirement system the amount of the reserve to be transferred on account of such military service.

2. Any retirement system from which a member shall transfer pursuant to this subdivision shall have the right to require reasonable proof of military service, pay status, and any other information relevant to eligibility for such transfer of credit for military duty.

3. The provisions of this subdivision e shall apply only to a "New York city member" who has rendered service as an officer or employee of the city of New York (or any agency thereof) or public corporation, the officers or employees of which are eligible for membership in a pension or retirement system maintained by such city, including performance of such military duty, for at least fifty per centum of the time between his commencement of such service and the date upon which he has attained or shall attain age fifty-five.

f. Notwithstanding any other provisions of law, a member of the retirement system in the employ of the state on March thirty-first, nineteen hundred seventy, other than a member of the state police in collective negotiating units established pursuant to article fourteen of the civil service law, who would have been entitled to transfer service credit from another retirement system pursuant to this section had he made a timely election, may obtain such credit by depositing in the retirement system an amount equal to the contributions withdrawn from the system of which he had been a member, with regular interest. Such deposit shall be made on or before March thirty-first, nineteen hundred seventy-two, provided, however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed. Such payments must commence no later than March thirty-first, nineteen hundred seventy-two. If the full amount is not paid to the retirement system, the amount of service credited shall be proportional to the total amount of the payments made.

g. This subdivision shall apply only to individuals who, subsequent to vesting in a retirement system, transfer to a second retirement system

whose governing laws require a greater number of years of credit for vesting than those of the first system, and who, upon such transfer, do not have the number of years of service credit that is ordinarily required to vest in such second retirement system.

1. Upon transfer, the number of years of service credit required for the transferred individual to attain vested rights in the second retirement system shall be the same as the number of years of service credit required, under applicable law, for vesting in the first retirement system.

2. In the event that an individual covered by this subdivision makes application to retire from such second system prior to attaining the amount of service credit that would otherwise be necessary to vest in such second retirement system, and such individual is otherwise eligible to retire from such second system, the application shall be granted, and benefits shall be calculated pursuant to the applicable subdivisions of this section on the basis of the actual amount of service credit the individual has accrued at the time of retirement. Transferred service credit shall not be creditable under any plan in the second retirement system that it would not otherwise be creditable under.

h. Notwithstanding any other provision of law to the contrary, with respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, no determination of a reserve pursuant to subdivision c of this section or transfer thereof pursuant to the first sentence of subdivision d of this section shall be required in the case of any transfer pursuant to this section (other than a transfer from the New York state and local police and fire retirement system to either (1) the New York city police department subchapter two pension fund, (2) the New York city fire department subchapter two pension fund or (3) the MTA police retirement program or a transfer from either (i) the New York city police department subchapter two pension fund or (ii) the New York city fire department subchapter two pension fund to either (A) the New York state and local police and fire retirement system or (B) the MTA police retirement

program or a transfer from the MTA police retirement program to the New York state and local police and fire retirement system) in the case of a member with less than ten years of credited service with the transferring retirement system at the time the transfer is initiated. With respect to transfers pursuant to such subdivisions which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, the transfer of a pension reserve shall be required when the member is transferring ten or more years of credited service from a public retirement system of the state to any other public retirement system of the state, excluding any transfers within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system. For the purpose of giving the transferring member such status and crediting such service in the second retirement system as such member was allowed in the first retirement system in those cases to which this subdivision shall apply, the transfer shall be deemed complete upon receipt by the second retirement system of:

1. a statement from the first retirement system of the transferring member's date of membership in the first retirement system, tier status, service credited to such membership being transferred, and such other information as the second retirement system may require to effectuate the transfer;

2. such member's accumulated contributions from the first retirement system, if same had not been previously withdrawn, or notice from the first retirement system that such member had no accumulated contributions, or notice from the first retirement system that such member's accumulated contributions had been withdrawn and the amount thereof and, as applicable, receipt from such member of such member's accumulated contributions and interest; and

3. the pension reserve in the case of a member who transfers in ten or more years of credited service, except when transferring within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of

education retirement system.

i. 1. Notwithstanding any other law, rule or regulation to the contrary, for any police officer employed by the division of law enforcement in the department of environmental protection in the city of New York transferring from the New York city employees' retirement system to the New York state and local police and fire retirement system after the effective date of this subdivision and any police officer formerly employed by the division of law enforcement in the department of environmental protection in the city of New York having made such transfer, such police officer's division of law enforcement in the department of environmental protection in the city of New York service credit shall be deemed creditable service, in such police officer's twenty year or twenty-five year retirement plan, if such police officer has served for at least two years in such employment and if, within one year of the date on which he or she first became a member of the New York state and local police and fire retirement system or within one year of the effective date of this subdivision, such member elects to do so.

2. The amount of such service credited to the member in the New York state and local police and fire retirement system plan shall not exceed the amount of service credited to the member in the New York city employees' retirement system plan.

3. If the member subsequently retires on an age-based retirement plan in the New York state and local police and fire retirement system instead of a twenty year or twenty-five year plan, the full amount of service credit earned, as a police officer employed by the division of law enforcement in the department of environmental protection in the city of New York shall be granted.

4. In no event shall the division of law enforcement in the department of environmental protection in the city of New York service credited to a member of the New York state and local police and fire retirement system pursuant to this subdivision exceed a total of ten years.

5. Notwithstanding any other provision of law in this section to the contrary, the reserve on such member's benefits shall be transferred from the New York city employees' retirement system to the New York state and local police and fire retirement system in accordance with subdivisions c and d of this section.

6. No member who receives service credit pursuant to this subdivision shall be eligible to receive additional service credit pursuant to subdivision b of section three hundred eighty-four-e of this article if his or her employer has elected to provide such service credit.

TITLE 7

LOANS, REFUNDS AND WITHDRAWALS

Section 350. Loans.

351. Refunds and withdrawals.

§ 350. Loans. a. The following may borrow from the police and fire retirement system:

1. Any member in government service or on leave of absence who has credit for at least one year of member service, provided the comptroller shall approve such loan. The total of any such loans shall not exceed seventy-five per centum of his accumulated contributions.

2. Any member absent on military duty, as defined in section two hundred forty-three of the military law. The amount of any such loan, however, shall not exceed the total of his accumulated contributions, less one dollar. Such nominal sum of one dollar shall be left in the annuity savings fund to his credit as a token of his continuing membership. Any member who:

(a) While absent on such military duty and prior to October first, nineteen hundred forty-six, withdrew his accumulated contributions, and

(b) Re-entered into government service within one year after the termination of such military duty, may redeposit and repay such withdrawn amount, with interest thereon at the rate of six per centum

per annum to October first, nineteen hundred forty-six, and thereafter at the general rate or rates fixed by the comptroller pursuant to this section. In such event such member shall be entitled to the same status, rights and privileges as if he had left the nominal sum of one dollar in the annuity savings fund as a token of his continuing membership.

b. Repayment of loans.

1. An amount so borrowed, together with interest on any unpaid balances thereof, shall be repaid in equal installments which shall be deducted from the member's compensation. Such additional contributions shall be in such amount as the comptroller shall approve. They shall, however, be at least equal to the member's normal contribution to the police and fire retirement system, or ten dollars per month, whichever is lower.

2. In the case of repayment by a member on leave of absence without pay, however, any such loan shall be repaid in such installments of principal and interest as the comptroller shall determine.

c. The comptroller, at any time, while the borrowing member is in government service or on leave of absence therefrom, may accept payments on account of any loan in addition to the installments fixed for repayment thereof.

d. The rate of interest payable upon loans made under this section shall be fixed by the comptroller. He shall have power, from time to time and at any time, to decrease such rate to not less than regular interest or to increase the same to not more than six percentum per annum. Any such decrease or increase shall apply, from the effective date thereof, to unpaid balances or loans outstanding on such date and to new loans made thereafter. The comptroller shall adjust any prepaid and unearned interest on balances of loans outstanding as of the effective date of a change in the interest rate.

e. The borrowing member's annuity savings account shall not be reduced by the loan obtained but a subsidiary record shall be maintained

reflecting the outstanding balance on such loan, as well as the allocation of the payroll deductions to principal and interest. Upon the member's withdrawal of his accumulated contributions or retirement, the balance due on his loan shall be deducted from the amount to his credit at such time in the annuity savings fund. Upon the death of the member prior to the loan being fully insured, that portion thereof which is uninsured, shall similarly be deducted from the amount to his credit at the time of his death in the annuity savings fund.

f. In the case of any benefit wherein the amount of pension will be determined, in part, by the amount of annuity, such annuity shall be computed upon the basis of accumulated contributions as if there were no loan or no additional contributions. The resulting retirement allowance shall then be reduced by the actuarial equivalent of the present value of any outstanding loan.

g. Insurance of loans. Each loan made pursuant to this section shall be insured against the death of the member. Such insurance shall be provided by the comptroller through the police and fire retirement system upon the following basis:

1. Amount of insurance. Each loan made pursuant to this section shall be insurable in its entirety and shall be insured thirty days after the making thereof.

2. Premiums. In March of each year, premiums at the rate established by the directive of the comptroller, in effect during such year, shall be charged to the member's annuity savings account. In pro-rating premiums, the major part of a month shall be considered as a whole month. If the member during this period withdraws his contributions, dies or retires, the premium to be charged at the time of such withdrawal, death or retirement shall be based on the number of months which had elapsed since the beginning of the fiscal year.

3. Loans heretofore made. Each loan made pursuant to law prior to the effective date of this section shall be insured from that date upon the terms and conditions set forth in this section, as hereby amended.

Premiums after such date shall be deducted in accordance with the provisions of this section.

4. Funds. The comptroller is authorized to establish such funds as may be necessary to carry out the provisions of this subdivision g.

5. Power of comptroller. The comptroller, in his discretion and at the end of any fiscal year, may increase or reduce the premium; modify the terms and conditions of coverage or discontinue the insurance of loans.

6. Continuity of insurance not obligatory. This subdivision shall not impose any obligation whatsoever upon the police and fire retirement system or any employer to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms and conditions.

h. Loans made to certain police officers and firefighters. Each loan made to police officers and firefighters while such persons were members of the New York state and local employees' retirement system shall be repaid according to the provisions of subdivision b of this section.

§ 351. Refunds and withdrawals. a. A member under age sixty may withdraw his accumulated contributions if he has been separated from service for a period of at least fifteen days.

b. A member sixty years of age or over, may elect, not later than fifteen days after filing his application for retirement, or not later than thirty days after his mandatory retirement has become effective by operation of law, to withdraw his accumulated contributions in lieu of a retirement allowance, provided that he

1. Has had less than five years of total service credit, or

2. Last became a member of the state employees' retirement system before April sixth, nineteen hundred forty-three, and subsequently became a member of the police and fire retirement system, or

3. Is eligible for an annual retirement allowance which, without optional modification, amounts to less than three hundred dollars.

c. The following contributions or additional contributions shall be treated as excess contributions which, together with regular interest and special interest thereon, may be withdrawn by a member at any time prior to retirement, or if not so withdrawn, shall be used to purchase additional annuity:

1. Contributions paid by a member in order to receive credit for service in war after world war I, as defined in section three hundred two of this article, not including, however, contributions required by subdivision k of section three hundred forty-one of this article.

2. Additional contributions paid by a member pursuant to sections three hundred eighty-one, three hundred eighty-one-a, three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-four, three hundred eighty-four-a, three hundred eighty-four-b, three hundred eighty-four-d, three hundred eighty-five, three hundred eighty-five-a, three hundred eighty-six, three hundred eighty-seven, three hundred eighty-seven-a and three hundred eighty-eight and where, as a result of a change in his employment, such additional contributions would not provide an additional pension allowance for service for which such additional contributions were made.

3. Such other contributions to the annuity savings fund as may be determined by regulation of the comptroller to be excess and subject to such withdrawal.

d. If a member dies before the effective date of his retirement, his accumulated contributions shall be paid to his estate or to the person nominated by him in a written designation duly executed and filed with the comptroller. In the event such a designated beneficiary does not survive him, or if he shall not have so designated a beneficiary, such contributions shall be payable to the deceased member's estate or as provided in section one thousand three hundred ten of the surrogate's

court procedure act. Such member, or after his death, the person so nominated by him may file with the comptroller a written designation, duly executed providing that such contributions shall be paid in the form of an annuity to such person so nominated. Such designation shall be filed prior to or within ninety days after the death of the member. The amount of such annuity shall be determined as the actuarial equivalent of such accumulated contributions on the basis of regular interest and the age of the person so nominated as of the date of such member's death.

dd. Notwithstanding the provisions of section three hundred ninety of this article, accumulated contributions shall be payable in the manner provided by subdivision d or e of this section in the case of a retired member who shall die before attaining age seventy where:

1. His application for retirement became effective prior to his death, and

2. No optional election by him was in effect at the time of his death, or he had made and filed a valid election to receive his retirement allowance without optional modification, and

3. He died within the period of thirty days immediately after his retirement became effective.

The amount of the accumulated contributions so payable under this subdivision shall be reduced by the amount of any annuity payment that may have been paid on account of such retirement.

The provisions of this subdivision shall apply in any case where death occurred on or after January first, nineteen hundred fifty-four.

e. A member, or after his death, the person nominated by him to receive his accumulated contributions, may elect to receive the actuarial equivalent of the annuity specified in subdivision d of this section in the form of a reduced annuity, payable for life, with the further proviso that if the person so nominated should die before the annuity payments received by him are equal to such actuarial equivalent,

the balance thereof shall be paid in a lump sum to such beneficiary's estate or to such person as such member or his nominee shall have designated prior to his death. Such election shall be made prior to or within ninety days after the death of the member. Such designation of a beneficiary to receive such lump sum may be made or changed at any time by the person who made it. Such election, designation or change shall be made by a writing duly executed and filed with the comptroller. If the person nominated to receive such lump sum does not survive the member's beneficiary, such lump sum, if any, shall be payable to the estate of the member's beneficiary or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

TITLE 8

DEATH BENEFITS AND DISABILITY RETIREMENT

- Section 360. Ordinary death benefit.
- 360-a. Guaranteed ordinary death benefit payable upon death of state employees.
 - 360-b. Guaranteed ordinary death benefit for participating employers.
 - 360-c. Death benefit for vested members who die prior to retirement.
361. Accidental death benefit.
- 361-a. Special accidental death benefit.
 - 361-a*2. Payment of interest on death benefits and accumulated member contributions.
362. Ordinary disability retirement.
363. Accidental disability retirement.
- 363-a. Firefighters and police officers; certain disabilities.
 - 363-b. State police disability retirement allowance.
 - 363-bb. State police accidental disability retirement allowance.
 - 363-c. Retirement for disability incurred in performance of duty.
 - 363-d. Certain impairments of health; presumption.
 - 363-dd. Impairments of health; presumption.
 - 363-e. Disability retirement allowance for members of the

division of law enforcement in the department of environmental conservation and the regional state park police.

363-f. Firefighters; presumption in certain diseases.

363-ff. Firefighter certain impairments of health; presumption.

364. Payment of both pensions for accident and other benefits prohibited.

§ 360. Ordinary death benefit. a. An ordinary death benefit plus the reserve-for-increased-take-home-pay shall be payable upon the death of a member who:

1. Died before the effective date of his retirement, and

2. Was in service upon which his membership was based when he died or was on the payroll in such service and paid within a period of twelve months prior to his death or within a period of twenty-four months prior to his death if on leave of absence as set forth below and had, unless his service was based on seasonal employment, not been otherwise gainfully employed since he ceased to be on such payroll except while on leave of absence which was granted in accordance with the provisions of subdivision i of section three hundred forty-one of this chapter and which commenced during the period from April first, nineteen hundred sixty-six through June thirtieth, nineteen hundred seventy-four, to perform services as a civilian officer or employee of the Federal government or one of its agencies or a contractor of the United States Agency for International Development engaged to perform the work of such agency, the United Nations, any other international organization of which the United States of America is a member, or a foreign government, and

3. Has credit for one or more years of service while actually a member. This requirement of one or more years of service while actually a member shall not be applicable to the reserve-for-increased-take-home-pay and shall be subject to waiver as provided in subdivision e of section three hundred forty-one of this article.

An ordinary death benefit shall not be payable in any case in which an accidental death benefit is payable provided, however, that where payments made pursuant to section three hundred sixty-one of this chapter on account of an accidental death benefit, computed without reduction pursuant to section three hundred sixty-four of this article, and the reserve-for-increased-take-home-pay total less than the ordinary death benefit and the reserve-for-increased-take-home-pay that would have been computed and made payable pursuant to this section three hundred sixty in the case of ordinary death, the difference shall be paid to the beneficiary or member's estate to which the ordinary death benefit and reserve-for-increased-take-home-pay would have been paid. Provided further, that where the beneficiary or beneficiaries designated to receive the accidental death benefit pursuant to section three hundred sixty-one of this chapter is the same beneficiary or beneficiaries designated by the member to receive the ordinary death benefit, then, and in that case the beneficiary or beneficiaries may elect to receive, in a lump sum, the value of the ordinary death benefit and the reserve-for-increased-take-home-pay, if any, that would have been computed and made payable pursuant to the provisions hereof in case of ordinary death, in lieu of any other benefit.

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an ordinary death benefit and/or guaranteed ordinary death benefit, a member shall be considered to have died while in service upon which his or her membership was based provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five. Provided, further, that any such member ordered to active duty with the armed forces of the United States or to service in the uniformed services who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service

requirement.

aa. Notwithstanding the provisions of section three hundred ninety of this article, an ordinary death benefit plus the reserve-for-increased-take-home-pay shall be payable to the beneficiary designated in a valid election of "Option One-half", if any, or in the manner provided by subdivisions c, d, or e of this section, in any other case, if a retired member shall die where:

1. His application for retirement became effective prior to his death, and

2. No optional election by him was in effect at the time of his death, or he had made and filed a valid election to receive his retirement allowance without optional modification or under "Option One-half", and

3. He died within the period of thirty days immediately after his retirement became effective.

The amount of the ordinary death benefit so payable under this subdivision shall be reduced by the amount of any pension payment that may have been paid on account of such retirement.

The provisions of this subdivision shall apply in any case where death occurred on or after January first, nineteen hundred fifty-four.

b. The ordinary death benefit plus the reserve-for-increased-take-home-pay shall be payable from the pension accumulation fund. The ordinary death benefit shall not exceed the compensation earnable by such member during his last twelve months of service while a member. The amount thereof shall be computed by multiplying one-twelfth of such compensation by the number of years, not to exceed twelve, of his total service credit. Provided, however, that where the member has more than twelve years of total service credit and where his death occurs on or after April first, nineteen hundred sixty-seven and on or before June thirtieth, nineteen hundred seventy-four, there shall be added to such ordinary death benefit one-twenty-fourth of such compensation multiplied by the number of years, not to exceed twenty-four, but exclusive of the

first twelve, of his total service credit. Provided, further, that where a member, qualified under subdivisions a or aa of this section, would have been entitled to a service retirement benefit at the time of his death and where his death occurs on or after April first, nineteen hundred sixty-seven, and on or before June thirtieth, nineteen hundred seventy-four, the amount payable under this section shall be equal to the pension reserve that would have been established had the member retired on the date of his death, unless the ordinary death benefit and the reserve-for-increased-take-home-pay, hereinabove provided for, shall be in excess thereof.

In the case of a retired member who has returned to service, total service credit for purposes of this section only, shall include service rendered prior to his or her retirement, provided that he or she shall have rendered at least one year of service since he or she last became a member or provided he or she shall have rendered since he or she returned to public service one year of service during which he or she elected pursuant to subdivision a of section four hundred one of this article not to be restored to membership in the police and fire retirement system. The member's accumulated contributions shall be refunded in accordance with subdivision d of section three hundred fifty-one of this article.

bb. (a) An ordinary death benefit shall be payable upon the death of a member who was in the employ of the state during its participation under section three hundred seventy-five-a of this chapter or of a participating employer while such employer is participating under the provisions of section three hundred seventy-five-b of this chapter.

The provisions of this subdivision bb shall apply in any case where death occurred on or April first, nineteen hundred sixty-seven and prior to July first, nineteen hundred seventy-four.

(b) The ordinary death benefit shall be payable from the pension accumulation fund. Such ordinary death benefit shall be based on compensation earnable by such member during his last twelve months of service while a member. The amount thereof shall be computed by multiplying one-twelfth of such compensation by the number of years, not

to exceed thirty-six, of his total service credit. Provided that where a member qualified under subdivisions a and aa of this section would have been eligible for service retirement at the time of his death and where his death occurs on or after April first, nineteen hundred sixty-seven and prior to July first, nineteen hundred seventy-four, the amount payable under this section shall be equal to the pension reserve that would have been established pursuant to section three hundred seventy-five-c had the member retired on the date of his death, unless the ordinary death benefit hereinabove provided for, shall be in excess thereof. The benefit provided herein shall be in lieu of the ordinary death benefit presently payable under other provisions of this chapter, unless the benefit under such other provisions shall be in excess of those provided for herein, in which event the greater benefit shall be payable.

(c) In the case of a retired member who has returned to service, total service credit, for purposes of this subdivision only, shall include service rendered prior to his retirement, provided that he shall have rendered at least one year of service since he last became a member, or provided he shall have rendered since he returned to public service one year of service during which he elected pursuant to subdivision a of section four hundred one of this article not to be restored to membership in the retirement system. The member's accumulated contributions shall be refunded in accordance with subdivision d of section three hundred fifty-one of this article.

c. The ordinary death benefit and the reserve-for-increased-take-home-pay shall be paid to the member's estate or to such person as he shall have nominated to receive such ordinary death benefit. To be effective, such a nomination must be in the form of a written designation, duly acknowledged and filed with the comptroller for this specific purpose. In the event such a designated beneficiary does not survive him, or if he shall not have so designated a beneficiary, such benefit shall be payable to the deceased member's estate or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

d. The member, or on the death of the member, the person nominated by

him to receive his death benefit, may provide, by written designation, duly executed and filed with the comptroller, that such death benefit and the reserve-for-increased-take-home-pay shall be paid in the form of an annuity. Such designation shall be filed prior to or within ninety days after the death of the member. The amount of such annuity shall be determined as the actuarial equivalent of such death benefit and reserve on the basis of the age of such beneficiary at the time of the member's death and regular interest.

e. A member, or after his death, the person nominated by him to receive his ordinary death benefit, may elect to receive the actuarial equivalent of the annuity specified in subdivision d of this section in the form of a reduced annuity, payable for life, with the further proviso that if the person so nominated should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to such beneficiary's estate or to such person as such member or his nominee shall have designated prior to his death. Such election shall be made prior to or within ninety days after the death of the member. Such designation of a beneficiary to receive such lump sum may be made or changed at any time by the person who made it. Such election, designation or change shall be made by a writing duly executed and filed with the comptroller. If the person nominated to receive such lump sum does not survive the member's beneficiary, such lump sum, if any, shall be payable to the estate of the member's beneficiary or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

f. Special death benefit. Notwithstanding any provision of paragraph three of subdivision a of this section to the contrary, a special death benefit shall be payable upon the death of an officer or member of the state police who is subject to the provisions of section three hundred eighty-one-b of this chapter, and who has credit for ninety or more days of service while actually a member of the retirement system. In lieu of the ordinary death benefit payable pursuant to subdivisions b or bb of this section, the special death benefit shall be payable upon the death of an officer or member of the state police and shall be equal to three times the member's compensation earnable during his last twelve months

of service as a member, raised to the next higher multiple of one thousand dollars. If, however, the ordinary death benefit payable pursuant to subdivision b or bb of this section upon the death of an officer or member of the state police who had been in service on or before April first, nineteen hundred sixty-nine would have exceeded the special death benefit otherwise payable pursuant to this subdivision had he not elected to come under the provisions of section three hundred eighty-one-b, the special death benefit payable under this subdivision shall be equal to that benefit which he would have received had he remained in his former plan. In no case shall the amount payable as a special death benefit on behalf of an officer or member of the state police who enters or re-enters service in the division after April first, nineteen hundred sixty-nine exceed three times the member's compensation earnable during his last twelve months of service as a member, raised to the next higher multiple of one thousand dollars.

g. 1. Notwithstanding any provision of paragraph three of subdivision a of this section to the contrary and in lieu of the ordinary death benefit payable pursuant to subdivisions b or bb of this section or the guaranteed ordinary death benefit payable pursuant to section three hundred sixty-a of this article, a special death benefit shall be payable upon the death in service of a security services unit member or parkway police unit member or security supervisors unit member who is subject to the provisions of this article, and who has credit for ninety or more days of service while actually a member of the retirement system.

2. The special death benefit provided under this section to the beneficiary of such security services unit member or parkway police unit member or security supervisors unit member shall be:

(a) in the case of a security services unit member or parkway police unit member or security supervisors unit member who was employed by the state on or before the date this act takes effect, equal to three times the member's compensation earnable during his last twelve months of service as a member or, if he had not completed twelve months of service prior to the date of his death, three times the compensation he would have earned had he worked for twelve months prior to such date, in

either case raised to the next higher multiple of one thousand dollars. If, however, the ordinary death benefit payable pursuant to subdivision b or bb of this section upon the death of such a security services member or parkway police unit member or security supervisors unit member would have exceeded the special death benefit payable pursuant to this subdivision, the special death benefit payable in the event of the death of such a member prior to July first, nineteen hundred seventy-one shall be equal to that benefit which would have otherwise been payable pursuant to subdivision b or bb of this section notwithstanding any provision of paragraph one of this subdivision to the contrary; or

(b) in the case of a security services unit member or parkway police unit member or security supervisors unit member who enters service after the date this act takes effect, equal to three times the member's compensation earnable during his last twelve months of service as a member or, if he has not completed twelve months of service prior to the date of his death, three times the compensation he would have earned had he worked for twelve months prior to such date, in either case raised to the next higher multiple of one thousand dollars.

3. For the purpose of this subdivision: (a) the terms "security services unit member", "parkway police unit member", and "security supervisors unit member" shall mean a member in the employ of the state in the collective negotiating unit designated as the security services unit or parkway police unit or security supervisors unit established pursuant to article fourteen of the civil service law; and

(b) the term "death in service" shall include the death of such a member who dies while off the payroll provided he or she (i) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (ii) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (iii) had credit for one or more years of continuous service since he or she last

entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

4. The provisions of this subdivision shall apply in any case where death occurs on or after the date this subdivision takes effect and prior to July first, nineteen hundred seventy-four.

§ 360-a. Guaranteed ordinary death benefit payable upon death of state employees. a. Upon the death in service of a member who was in the employ of the state on March thirty-first, nineteen hundred sixty-nine, and whose beneficiary was eligible for the ordinary death benefit pursuant to section three hundred sixty of this chapter, or would have been eligible had the state employee had one year or more of service, such beneficiary shall receive an ordinary death benefit payable pursuant to section three hundred sixty, or, in lieu of such ordinary death benefit, the benefit payable pursuant to this section, whichever is greater.

aa. Upon the death in service of a member on or after April first, nineteen hundred seventy, who (1) entered or reentered the employ of the state after March thirty-first, nineteen hundred sixty-nine and prior to April first, nineteen hundred eighty-five, and was in such employ on March thirty-first, nineteen hundred eighty-five, (2) had not attained age sixty at the date of such entrance into such service, (3) had rendered ninety or more days of continuous state service during the fifteen month period immediately preceding death, (4) last joined or rejoined a public retirement system thereof before July first, nineteen hundred seventy-three, and (5) whose beneficiary was eligible for the ordinary death benefit pursuant to section three hundred sixty of this chapter, or would have been eligible had the employee had one year or more of state service, such beneficiary shall receive an ordinary death

benefit payable pursuant to section three hundred sixty of this chapter, or, in lieu of such ordinary death benefit, the benefit payable pursuant to this section, whichever is greater.

aaa. Provided further, notwithstanding any other provision of this article to the contrary, where the member is an officer or member of the state police and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater. Provided further, that for the purpose of determining entitlement to the benefit provided by this subdivision, and notwithstanding the provisions of subdivision j of section three hundred forty-one of this article, the total number of days of unused sick leave and accumulated vacation credit accrued by the member at the time of his or her death shall be considered in meeting the total creditable service required to qualify for a service retirement benefit provided without regard to age where his or her death occurs on or after July second, two thousand nine.

b. The guaranteed ordinary death benefit provided under this section to such a beneficiary shall be three times the compensation earnable by the state employee during his last twelve months of service as a member, raised to the next higher multiple of one thousand dollars, but in no event, greater than twenty thousand dollars.

c. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died

while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for at least one year of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

d. The provisions of this section shall apply in any case where death occurs on or after the date this section becomes law and prior to July first, nineteen hundred seventy-four.

§ 360-b. Guaranteed ordinary death benefit for participating employers. (a) Pursuant to the provisions of section three hundred thirty-three of this article, a participating employer may elect to provide a guaranteed ordinary death benefit upon the death in service of its employees who (i) meet all of the requirements of section three hundred sixty of this title except that contained in paragraph three of subdivision (a) thereof, and (ii) last entered or reentered the employ of a participating employer prior to April first, nineteen hundred eighty-five, and were in such employ on March thirty-first, nineteen hundred eighty-five, and (iii) last joined or rejoined a public retirement system of the state or a municipality thereof before July first, nineteen hundred seventy-three, and (iv) had not attained age sixty at the date of such entrance into such service, and (v) had rendered ninety or more days of continuous service in the service of such participating employer during the fifteen month period immediately preceding death. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered

to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

(b) The guaranteed ordinary death benefit provided under this section to the beneficiary of such employee shall be three times the compensation earnable by him during his last twelve months of service as a member, raised to the next higher multiple of one thousand dollars, but in no event greater than twenty thousand dollars. Where such employee dies before rendering one year of service, the death benefit pursuant to this section shall be three times the compensation that the member would have earned had he worked for twelve months prior to the date of his death, raised to the next higher multiple of one thousand dollars, but in no event greater than twenty thousand dollars.

(c) The beneficiary shall receive the benefits provided by this section or those provided by section three hundred sixty of this article, whichever are greater.

(d) The provisions of this section shall apply in the case of death occurring on or after this section becomes law and prior to July first, nineteen hundred seventy-four.

§ 360-c. Death benefit for vested members who die prior to retirement.

a. A death benefit plus the reserve-for-increased-take-home-pay shall be payable upon the death of a member who:

1. Died before the effective date of retirement while a member of the retirement system;

2. Had at least ten years of credited service at the time of death; and

3. Died at a time and in a manner which did not result in the eligibility of the member's estate or any beneficiary to receive any other retirement system death benefits on account of such death.

b. Benefits provided under this section shall be payable to the member's estate or the beneficiary or beneficiaries nominated by the member on a designation of beneficiary form filed with the comptroller pursuant to section sixty of this chapter, who would have been eligible to receive benefits if benefits had become payable pursuant to such section.

c. The amount of the benefit payable pursuant to this section shall be equal to one-half of the amount of the ordinary death benefit which would have been payable pursuant to section sixty of this chapter had the member's death occurred on the last day of service upon which membership was based.

§ 361. Accidental death benefit. a. An accidental death benefit and the reserve-for-increased-take-home-pay shall be payable upon the death of a member if, upon application, filed within five years after the death of such member the comptroller shall determine, on the basis of the evidence, that such member:

1. Died before the effective date of his retirement, as the natural and proximate result of an accident sustained in the performance of duty in the service upon which his membership was based, and

2. Did not cause such accident by his own willful negligence, and

3. At the time of such accident was actually a member of the police

and fire retirement system.

Where the claimant is an infant or is mentally or physically incapacitated, and because of the aforesaid disability application for accidental death benefit is not filed within the time specified by this subdivision, or where a person entitled to make a claim dies before the expiration of the time so specified, the comptroller in his or her discretion may grant leave to file such application within a reasonable time after the expiration of the time specified in this subdivision.

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit and/or special accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five.

b. The accidental death benefit and the reserve-for-increased-take-home-pay shall be payable from the pension reserve fund. Such accidental death benefit shall consist of a pension of one-half of the member's final average salary. The payment of such pension shall be subject to the provisions of section three hundred sixty-four of this article. The reserve-for-increased-take-home-pay shall be paid in a lump sum to those entitled thereto in accordance with subdivision d of this section. The member's accumulated contributions shall be refunded in accordance with subdivision d of section three hundred fifty-one of this article.

c. The accidental death benefit payable pursuant to this section on account of a member whose:

1. Service was on other than a full-time basis at the time of his death, and

2. Death was the natural and proximate result of an accident sustained while a member and while in the performance of duty, shall be equal to the benefit that would be paid on account of such member were his service on a full-time basis.

d. The pension on account of accidental death and the reserve-for-increased-take-home-pay shall be paid to:

1. The member's widow or widower to continue during his or her lifetime. If he or she shall leave no widow or widower, or if his or her widow or widower shall die before all his or her children shall have attained age eighteen, or if students, before all of his or her children shall have attained age twenty-three, or sooner die, then to

2. His or her child or children under age eighteen, or, if students, his or her children under age twenty-three, divided in such manner as the comptroller, in his discretion, shall determine. Such pension shall continue as a joint and survivor pension until every such child shall have attained age eighteen, or, if a student, shall have attained age twenty-three, or sooner die. If no widow or widower or child under age eighteen, or, if a student, under age twenty-three, shall survive such member, at the time of his or her death, then to

3. His or her dependent father or dependent mother, as he or she shall have nominated by written designation duly acknowledged and filed with the comptroller. Such pension shall continue for the life of the parent so designated. If there be no such designation, then to

4. His or her dependent father or dependent mother, as the comptroller, in his discretion, shall determine. Such pension shall continue for the life of the parent so elected.

For purposes of this subdivision, student shall mean a person enrolled in an accredited institution of higher education for at least twelve

semester hours for a semester of not less than fifteen weeks, inclusive of examination periods; or eight semester hours a quarter; or, in programs not organized on a semester or quarter basis, twenty-four semester hours for an academic year of not more than twelve months or the equivalent, as determined by the commissioner of education. A student shall be considered full-time for a program organized on an academic-year basis only if the student has filed a plan of study with the institution for the entire academic year.

*** § 361-a. Special accidental death benefit.** a. Notwithstanding any other provision of law, a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died who is or are receiving the accidental death benefit provided by section three hundred sixty-one of this chapter, shall also be paid the special accidental death benefit authorized by this section.

b. The special accidental death benefit shall be payable from the pension accumulation fund, and shall consist of a pension which is equal to the salary of the deceased member reduced by the sum of each of the following benefits received by the widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, on account of the death of the deceased member:

1. The total accidental death benefit, without a reduction pursuant to section three hundred sixty-four of this chapter, and

2. The social security benefit payable on July first, nineteen hundred seventy-eight for death occurring prior to July first, nineteen hundred seventy-eight; or the social security benefit payable immediately after death if such death occurs on or after July first, nineteen hundred seventy-eight. In the event the social security benefit is reduced to an amount less than that noted in this paragraph, the amount of special accidental death benefit shall be increased by the amount of the social security reduction.

In the case of a deceased member who died prior to January first, nineteen hundred seventy-eight the salary shall be increased by a percentage which shall be determined on the basis of the consumer price index (all items--U.S. city average), published by the United States bureau of labor statistics. The percentage shall be determined as the ratio of two indexes, the denominator of which is the average of the twelve monthly consumer price indexes of the calendar year of the death of the member and the numerator of which is the average of the twelve monthly consumer price indexes for the calendar year nineteen hundred seventy-seven. Said ratio, minus one, shall be expressed as a percentage and shall be adjusted to the nearest one-tenth of one per centum.

c. Commencing July first, two thousand twenty-six the special accidental death benefit paid to a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member, as increased pursuant to subdivision b of this section, in accordance with the following schedule:

calendar year of death of the deceased member	per centum
1977 or prior	325.6%
1978	313.2%
1979	301.2%
1980	289.5%
1981	278.2%
1982	267.1%
1983	256.5%
1984	246.1%
1985	236.0%
1986	226.2%
1987	216.7%
1988	207.5%
1989	198.5%
1990	189.8%
1991	181.4%

1992	173.2%
1993	165.2%
1994	157.5%
1995	150.0%
1996	142.7%
1997	135.7%
1998	128.8%
1999	122.1%
2000	115.7%
2001	109.4%
2002	103.3%
2003	97.4%
2004	91.6%
2005	86.0%
2006	80.6%
2007	75.4%
2008	70.2%
2009	65.3%
2010	60.5%
2011	55.8%
2012	51.3%
2013	46.9%
2014	42.6%
2015	38.4%
2016	34.4%
2017	30.5%
2018	26.7%
2019	23.0%
2020	19.4%
2021	15.9%
2022	12.6%
2023	9.3%
2024	6.1%
2025	3.0%
2026	0.0%

d. For the purpose of this section, salary shall be the regular

compensation earned during the member's last twelve months of service in full pay status as a member, or, if he or she had not completed twelve months of service prior to the date of death, the compensation he or she would have earned had he or she worked for the twelve months prior to such date, provided that for the purpose of any payment on or after January first, two thousand one the term salary shall in no case be less than the full salary payable to a police officer in the highest grade-step (in the case of a deceased police officer) or a firefighter in the highest grade-step (in the case of a deceased firefighter) while employed by a department or uniformed force on the date of such employee's death. Provided further that for the purpose of any payment on or after January first, two thousand one, the term salary shall in no case be less than the earnings that would have been payable to a police superior officer were he or she in the highest grade-step of a supervisory position (in the case of a police superior officer deceased on or after January first, two thousand one who had been appointed to and was serving in such a supervisory position) or payable to a fire officer were he or she in the highest grade-step of a supervisory position (in the case of a fire officer deceased on or after January first, two thousand one who had been appointed to and was serving in such a supervisory position) employed by a department or uniformed force on the date of such employee's death.

e. The special accidental death benefit shall be paid to:

1. The member's widow or widower to continue during his or her lifetime. If he or she shall leave no widow or widower, or if his or her widow or widower shall die before all his or her children shall have attained age eighteen or, if a student, shall have attained the age of twenty-three or sooner die, then to

2. His or her child or children under age eighteen or, if a student, under the age of twenty-three, divided in such manner as the comptroller, in his discretion, shall determine. Such pension shall continue in the same amount as received by the member's widow or widower as a joint and survivor pension until every such child shall have attained age eighteen or, if a student, attained the age of twenty-three

or sooner die.

f. For purposes of this section, the term "student" means a person enrolled in an accredited institution of higher education for at least twelve semester hours for a semester of not less than fifteen weeks, inclusive of examination periods; or eight semester hours a quarter; or, in programs not organized on a semester or quarter basis, twenty-four semester hours for an academic year of not more than twelve months or the equivalent, as determined by the commissioner of education. A student shall be considered full-time for a program organized on an academic-year basis only if the student has filed a plan of study with the institution for the entire academic year.

* NB There are 2 § 361-a's

*** § 361-a. Payment of interest on death benefits and accumulated member contributions.** Interest shall accrue against unpaid accidental and ordinary death benefits plus the reserve-for-increased-take-home-pay from the date of death of a member until payment thereof is made. Interest shall accrue against accumulated member contributions from the date of death until payment thereof is made, where no death benefit is payable on account of such death. An application for the payment of such benefits must be made in writing on a blank provided by the comptroller for such purpose. Interest against the unpaid benefit shall be at the rate provided for by subdivision one of section three-a of the general municipal law.

* NB There are 2 § 361-a's

§ 362. Ordinary disability retirement. a. Application for an ordinary disability retirement allowance for a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. Some person acting on behalf of and authorized by such member.

aa. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. Actually be in service upon which his membership is based, or, have been discontinued from service, either voluntarily or involuntarily, for not more than ninety days, providing the member was disabled prior to such discontinuance.

After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for ordinary disability, he shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

b. Upon retirement for ordinary disability one of the following retirement allowances shall be payable:

1. If a member has attained age sixty when such retirement becomes effective, his or her retirement allowance shall be equal to that which he or she would receive in the case of superannuation retirement, unless the member is enrolled in a plan provided under section three hundred seventy-a, three hundred seventy-one-a or three hundred seventy-five of this article, in which case the benefit shall be calculated in the manner described in clause two of subparagraph (c) of paragraph two of this subdivision.

2. If the member has not attained age sixty when such retirement becomes effective, his retirement allowance shall consist of:

- (a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

- (b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

- (c) A pension computed in accordance with whichever of the following

provides the greater benefit:

(1) A pension which, together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal ninety per centum of one-seventieth of his final average salary multiplied by the number of years of his total service credit, which formula shall be used only if the retirement allowance so computed exceeds one-quarter of his final average salary.

If the retirement allowance so computed shall amount to one-quarter or less of the member's final average salary, his pension shall be computed upon the basis of the total service which he would have rendered if he continued in service until he attained age sixty so far as the resulting retirement allowance computed by resort to this formula shall not exceed one-quarter of the member's final average salary.

(2) A pension which together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal one-sixtieth of his final average salary multiplied by the number of years of his total service credit, which formula shall be used only if the retirement allowance so computed exceeds one-third of his final average salary. If the retirement allowance so computed shall amount to one-third or less of the member's final average salary, his pension shall be computed upon the basis of the total service which he would have rendered if he continued in service until he attained age sixty so far as the resulting retirement allowance computed by resort to this formula shall not exceed one-third of the member's final average salary. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this item (2) shall apply only to those who file an application for ordinary disability retirement with the comptroller prior to July first, nineteen hundred seventy-four.

For the purpose only of determining the amount of a pension pursuant to any of the above formulae, the annuity shall be computed as it would be:

(aa) If not reduced by the actuarial equivalent of any outstanding loan, and

(bb) If not increased by the actuarial equivalent of any additional contributions, and

(cc) If not reduced by reason of the member's election to decrease his

or her annuity contributions to the police and fire retirement system in order to apply the amount of such reduction in payment of his or her contributions for old-age and survivors insurance coverage.

c. If the member, at the time of the filing of an application under the provisions of subdivision a hereof, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement in accordance with the provisions of section three hundred seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for ordinary disability retirement.

d. An application for an ordinary disability retirement allowance may be filed, as otherwise provided herein, simultaneously with or after the filing of an application for an accidental disability retirement allowance, providing a member meets the requirements of this section. If the comptroller shall grant the application for an accidental disability retirement allowance and the application for an ordinary disability retirement allowance, the accidental disability retirement allowance shall become payable unless the applicant files a timely written request with the comptroller to receive the ordinary disability retirement allowance in lieu of the accidental disability retirement allowance, in which case the ordinary disability retirement allowance shall become payable. To become effective, such written request must be filed with the comptroller within thirty days following notification that the applications for ordinary disability retirement and accidental disability retirement have both been granted.

§ 363. Accidental disability retirement. a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member

of the police and fire retirement system, and

2. Actually in service upon which his membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made, either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is first discontinued from service. Provided further that in the case of an application filed for accidental disability benefits pursuant to section three hundred sixty-three-d of this title, the requirements for filing for such benefits shall be five years.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. Some person acting on behalf of and authorized by such member.

c. (a) After the filing of such an application such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

1. The time when and the place where such accident occurred, and
2. The particulars thereof, and
3. The nature and extent of the member's injuries, and
4. His alleged incapacity.

(b) The notice herein required need not be given:

1. If notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

2. If the application for accidental disability retirement is filed within one year after the date of such accident, or

3. If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon accidental disability retirement shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated contributions, plus

2. A pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he may be entitled, if any, plus

3. A pension of three-quarters of his final average salary. The payment of such pension shall be subject to the provisions of section three hundred sixty-four of this article.

f. If the member, at the time of the filing of an application under the provisions of subdivision b hereof, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed

without prejudice to the application for accidental disability retirement.

g. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's

retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

(e) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

h. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision g of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section three hundred sixty-one of this title, shall be entitled to an accidental death benefit as provided by section three hundred sixty-one of this title, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section three hundred sixty-one of this title requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant

to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision g of this section; and (2) dies in active service from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section three hundred sixty-one of this title, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section three hundred sixty-one of this title.

*** § 363-a. Firefighters and police officers; certain disabilities.** 1. Notwithstanding any provision of this chapter or of any general, special, or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a firefighter shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence.

2. Notwithstanding any provision of this chapter or of any general, special, or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a police officer, presently employed, and who shall have sustained

such disability while so employed, shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence.

3. As used in this section, the terms "firefighter" and "police officer" mean any member who is performing police or fire service, as the phrase police or fire service is defined in paragraphs a, b, c, d, f (as added by chapter six hundred seventy-four of the laws of nineteen eighty-six), f (as added by chapter six hundred seventy-seven of the laws of nineteen eighty-six), g, h, i and j of subdivision eleven of section three hundred two of this article, and who, prior to entry into service as a firefighter or police officer, successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

4. The provisions of this section shall remain in full force and effect to and including August thirty-first, nineteen hundred seventy-six.

* NB Expired August 31, 1976 -- Kept alive per sub. a of § 480

§ 363-b. State police disability retirement allowance. a. Every member or officer of the division of state police in the executive department who becomes physically or mentally incapacitated for the performance of duty prior to July first, nineteen hundred seventy-four, shall be covered by the provisions of this section in lieu of the provisions of section three hundred sixty-two or three hundred sixty-three of this article; except, however, any such member or officer who last entered or reentered the New York state and local police and fire retirement system or transferred total service credits as defined in subdivision thirty-four of section three hundred two of this article to such system prior to service in the division of state police, or, in the case of a member in a collective negotiating unit consisting of members of the state police below the rank of lieutenant and established pursuant to article fourteen of the civil service law, last entered or reentered service in the division prior to May thirtieth, nineteen hundred

seventy-two, shall be entitled to apply for disability retirement pursuant to such sections and to receive the benefit so payable in lieu of the benefit payable pursuant to this section.

b. Eligibility. A member or officer shall be entitled to a state police disability retirement allowance if, at the time application therefor is filed, he is:

1. Under age sixty, and

2. (a) Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the police and fire retirement system, or

- (b) Physically or mentally incapacitated for performance of duty as a result of a disability that was not sustained in such service, and has at least five years of total service credit in the division, and

3. Actually in service upon which his membership is based, or, have been discontinued from service, either voluntarily or involuntarily for not more than ninety days provided the member was disabled prior to such discontinuance, or is a vested member incapacitated as a result of a qualifying World Trade Center condition as defined in section two of this chapter. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is discontinued from service and provided that the member meets the requirements of subdivisions a and b of this section.

c. Application. Application for a state police disability retirement allowance may be made by:

1. Such member, or

2. The superintendent of state police or his designee, or

3. A person acting on behalf of and authorized by such member.

d. Verification of disability. After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, he shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. Upon retirement pursuant to this section one of the following retirement allowances shall be payable:

1. If a member has completed twenty or more years of creditable service and is eligible for service retirement his retirement allowance shall be equal to that which he would have received in the case of service retirement.

2. If a member is not eligible for a service retirement as specified in paragraph one of this subdivision, his retirement allowance shall consist of:

(a) An annuity which shall be the actuarial equivalent of the member's accumulated contributions attributable to service rendered prior to April first, nineteen hundred sixty as provided pursuant to paragraph four of subdivision b of section three hundred eighty-one-b of this article plus

(b) A pension which together with such annuity provides an allowance equal to one-half of his final average salary.

3. Notwithstanding the provisions of this subdivision, a member transferred to the division of state police pursuant to a chapter of the laws of nineteen hundred ninety-seven who files for a disability retirement under this section for a physical or mental incapacity attributable to an injury or incident which occurred prior to such transfer, shall be eligible to file for the disability retirement benefits attributable to the plan applicable to such member before the transfer. In the case of a member transferred to the division pursuant

to said chapter who files for a disability retirement under this section for a physical or mental incapacity attributable to an injury or incident which occurs after such transfer, for the purposes of calculating service credit required by subparagraph (b) of paragraph two of subdivision b of this section, service in the capital police force in the office of general services shall be considered service in the division.

f. If the member, at the time of the filing of an application under the provisions of subdivision c hereof, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement in accordance with the provisions of section three hundred eighty-one-b of this article, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the state police disability retirement allowance.

g. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section three hundred sixty-four of this article. Any benefits payable pursuant to the workmen's compensation law to a member or officer receiving a disability allowance pursuant to this section shall be in addition to such state police disability allowance, provided, however, that in the event the disabled retired member is also entitled to disability benefits under the federal social security act, and the sum of the disability retirement allowance, supplemental retirement allowance, workmen's compensation benefit, and the primary social security disability insurance benefit exceeds final salary, as defined in subdivision e, section four hundred two of this article, that portion of the pension which increases the combined benefit above final salary shall be suspended for the duration of the period that the combined benefit would so exceed final salary.

§ 363-bb. State police accidental disability retirement allowance. a. A member may elect to receive an accidental disability retirement allowance as provided under this section in lieu of the benefits

provided under section three hundred sixty-three-b of this title if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the New York state and local police and fire retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case if a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, application may be made not later than two years after the member is first discontinued from service and provided that the member meets the requirements of paragraph one of this subdivision.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member, or
2. The superintendent of state police or his or her designee, or
3. A person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred,
- (b) The particulars thereof,
- (c) The nature and extent of the member's injuries, and
- (d) His or her alleged incapacity.

2. The notice required by this section need not be given:

- (a) If notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a

participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident, or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. Notwithstanding any other provision of law, the retirement allowance payable upon accidental disability retirement shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated contributions, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may be entitled, if any, plus

3. A pension of three-quarters of his or her final average salary. The payment of such pension shall be subject to the provisions of section three hundred sixty-four of this title.

f. If the member, at the time of filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the applicant for accidental disability retirement.

g. For purposes of this section, the term "accident" shall have the

same meaning and be interpreted in the same manner as such term is defined and/or interpreted to mean in section three hundred sixty-three of this title, as amended.

h. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, any condition or impairment of health caused by a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.

(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.

(c) For purposes of this subdivision, "qualifying condition or

impairment of health" shall include:

(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;

(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;

(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;

(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;

(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or

(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;

(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:

(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or

(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or

(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or

(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes

of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.

(e) In order to be eligible for consideration for such presumption, such member must file either a written and sworn statement with the member's retirement system on a form provided by such system, or as allowed by the member's retirement system, electronically submit a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity, indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.

(f) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, and subsequently retired on a service retirement, an ordinary disability retirement, a performance of duty disability retirement or a state police disability retirement pursuant to section three hundred sixty-three-b of this title and subsequent to such retirement incurred a disability caused by any qualifying condition or impairment of the health which the comptroller determines to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. A member shall be eligible for the

presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.

(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:

(i) the member files either a written and sworn statement with the member's retirement system on a form provided by such system, or as allowed by the member's retirement system, electronically submits a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity, indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and

(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.

(c) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(d) Such member's retirement option shall not be changed as a result of such reclassification.

(e) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

(f) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision h of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying condition or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision h of this section, that is determined by the applicable head of the retirement system or applicable medical board to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision h of this section, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section three hundred sixty-one of this title, shall be entitled to an accidental death benefit as provided by section three hundred sixty-one of this title, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section three hundred sixty-one of this title requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any

post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

j. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision h of this section; and (2) dies in active service from a qualifying condition or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision h of this section, that is determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision h of this section, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section three hundred sixty-one of this title, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section three hundred sixty-one of this title.

§ 363-c. Retirement for disability incurred in performance of duty. a. After January first, nineteen hundred eighty-five, a member who becomes physically or mentally incapacitated for the performance of duty shall be covered by the provisions of this section in lieu of the provisions of section three hundred sixty-three of this article; except, however, any such member who last entered or re-entered service prior to that date shall be entitled to apply for disability retirement pursuant to such section and to receive the benefit so payable in lieu of the

benefit payable pursuant to this section.

b. Eligibility. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the police and fire retirement system, and

2. Actually in service upon which his membership is based. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is discontinued from service and provided that the member meets the requirements of subdivision a of this section and this subdivision.

c. Application. Application for retirement for disability incurred in performance of duty may be made by:

1. Such member, or

2. The head of the department in which such member is employed.

d. Verification of disability. After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, he shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. (a) No such application shall be approved, however, unless the member or some other person on his behalf shall have filed written notice in the office of the comptroller within ninety days after the occurrence which is the basis for the disability incurred in the

performance of duty, setting forth:

1. The time, date and place of such occurrence, and
2. The particulars thereof, and
3. The nature and extent of the member's injuries, and
4. The alleged disability.

(b) The notice herein required need not be given:

1. If notice of such occurrence shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

2. If the application for retirement for disability incurred in the performance of duty is filed within one year after the date of the occurrence which forms the basis for the application, or

3. If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

(c) Notwithstanding any other provision of law to the contrary, the provisions of this subdivision shall apply to all occurrences before or after the effective date of this section.

f. The retirement allowance payable upon retirement for disability incurred in the performance of duty shall consist of a pension of one-half of his final average salary plus an annuity which shall be the actuarial equivalent of the member's accumulated contributions, if any.

g. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the

retirement for disability incurred in performance of duty.

h. The provisions of this section and the benefits provided for therein shall not be applicable to members who are subject to the provisions of section three hundred sixty-three-b of this article.

i. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section three hundred sixty-four of this article. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

j. A final determination of the comptroller that the member is not entitled to retirement benefits pursuant to this section shall not in any respect be, or constitute, a determination with regard to benefits payable pursuant to section two hundred seven-a or section two hundred seven-c of the general municipal law.

§ 363-d. Certain impairments of health; presumption. Notwithstanding any other provisions of this chapter to the contrary, any (i) melanoma or (ii) condition of cancer affecting the lymphatic, digestive, hematological, urinary, neurological, breast, reproductive, endocrine/thyroid or prostate systems, resulting in total or partial disability or death to a paid firefighter, who successfully passed a physical examination on entry into firefighter service, which examination failed to reveal any evidence of such melanoma or condition, shall be presumptive evidence that, unless the contrary be proven by competent evidence, such disability or death (a) was caused by the natural and proximate result of an accident, not caused by such firefighter's own willful negligence, and (b) was sustained in the performance and discharge of duty. The provisions of this section shall remain in full force and effect pursuant to section four hundred eighty of this chapter.

§ 363-dd. Impairments of health; presumption. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any police officer or firefighter who is covered by the provisions of section three hundred sixty-three of this title and who contracts HIV, tuberculosis or hepatitis after contact with members of the public (where there may have been an exposure to a bodily fluid) will be presumed to have contracted such disease in the performance or discharge of his or her duties as the natural and proximate result of an accident and to be disabled from the performance of his or her duties unless the contrary be proven by competent evidence.

§ 363-e. Disability retirement allowance for members of the division of law enforcement in the department of environmental conservation and the regional state park police.

a. Every non-seasonally appointed sworn member or officer of the division of law enforcement in the department of environmental conservation and the regional state park police who becomes physically or mentally incapacitated for the performance of duty shall be covered by the provisions of this section in lieu of the provisions of section three hundred sixty-two of this article; except, however, any such member or officer who last entered or reentered service in the department of environmental conservation or state park police, as the case may be, prior to September first, nineteen hundred ninety-seven, shall be entitled to apply for disability retirement pursuant to such sections and to receive the benefit so payable in lieu of the benefit payable pursuant to this section.

b. Eligibility. A member or officer shall be entitled to a disability retirement allowance under this section if, at the time application therefor is filed, he/she is:

1. Under age sixty, and
2. (a) Physically or mentally incapacitated for performance of duty as

the natural and proximate result of a disability not caused by his/her own willful negligence sustained in such service and while actually a member of the police and fire retirement system, or

(b) Physically or mentally incapacitated for performance of duty as a result of a disability that was not sustained in such service, and has at least five years of total service credit in the division, and

3. Actually in service upon which their membership is based, or, have been discontinued from service, either voluntarily or involuntarily for not more than ninety days provided the member was disabled prior to such discontinuance, or is a vested member incapacitated as a result of a qualifying World Trade Center condition as defined in section two of this chapter. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is discontinued from service and provided that the member meets the requirements of this subdivision and subdivision a of this section.

c. Application. Application for a disability retirement allowance under this section may be made by:

1. Such member, or

2. The commissioner of the department of environmental conservation or the office of parks, recreation and historical preservation, as the case may be or his designee, or

3. A person acting on behalf of and authorized by such member.

d. Verification of disability. After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, he/she shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. Upon retirement pursuant to this section one of the following retirement allowances shall be payable:

1. If a member has completed twenty-five or more years of creditable service and is eligible for service retirement his retirement allowance shall be equal to that which he would have received in the case of service retirement.

2. If a member is not eligible for a service retirement as specified in paragraph one of this subdivision, his retirement allowance shall consist of:

(a) An annuity which shall be the actuarial equivalent of the member's accumulated contributions attributable to service rendered prior to January first, nineteen hundred eighty-seven as provided pursuant to paragraph one of subdivision d of section three hundred eighty-three-a, or paragraph one of subdivision f of section three hundred eighty-three-b of this article, as the case may be, plus

(b) A pension which together with such annuity provides an allowance equal to one-half of his final average salary.

f. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement in accordance with the provisions of section three hundred eighty-three-a or three hundred eighty-three-b of this article, as the case may be, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the disability retirement allowance under this section.

g. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section three hundred sixty-four of this article. Any benefits payable pursuant to the workers' compensation law to a member or officer receiving a disability allowance pursuant to this section shall be in addition to such disability allowance under this section, provided,

however, that in the event the disabled retired member is also entitled to disability benefits under the federal social security act, and the sum of the disability retirement allowance, supplemental retirement allowance, workers' compensation benefit, and the primary social security disability insurance benefit exceeds final salary, as defined in subdivision e of section four hundred two of this article, that portion of the pension which increases the combined benefit above final salary shall be suspended for the duration of the period that the combined benefit would so exceed final salary.

*** § 363-f. Firefighters; presumption in certain diseases.**

Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, and for the purposes of this chapter, any condition of impairment of health caused by diseases of the lung, resulting in total or partial disability or death to a uniformed member of a paid fire department, where such member successfully passed a physical examination on entry into such service or subsequent thereto, which examination failed to reveal any evidence of such conditions, shall be presumptive evidence that such disability or death (1) was caused by the natural and proximate result of an accident, not caused by such firefighter's own negligence and (2) was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence. The provisions of this section shall remain in full force and effect to and including the thirtieth day of June, two thousand eight.

* NB Expired July 1, 2008

§ 363-ff. Firefighter certain impairments of health; presumption.

Notwithstanding any other provisions of this chapter to the contrary, any condition of impairment of health caused by Parkinson's Disease, resulting in total or partial disability or death to a paid firefighter, who successfully passed a physical examination on entry into firefighter service, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that, unless the contrary be proven by competent evidence, such disability or death (a) was caused by

the natural and proximate result of an accident, not caused by such firefighter's own willful negligence, and (b) was sustained in the performance and discharge of duty.

§ 364. Payment of both pensions for accident and other benefits prohibited. a. If any benefits under the workers' compensation law may be or become payable as the result of accidental disability or accidental death, no payment of any benefit shall be made pursuant to this article on account of such disability or death until there shall have been a final determination of the claim for workers' compensation benefits. Pending such final determination, however, the comptroller may authorize payment of all or any part of the benefits payable under this chapter, and in that event, shall be entitled to reimbursement out of the unpaid installment or installments of compensation due under the workers' compensation law provided that claim therefor is filed pursuant to the provisions of such law. Any pension, payable pursuant to this article on account of any such disability or death, shall be reduced by the amount of the benefits that are finally determined to be payable under the workers' compensation law by reason of such disability or death. Such reduction shall be effectuated as follows:

1. Pension installments shall be reduced by the amount of the concurrent workers' compensation benefits.

2. The pension reserve on account of a pension so payable shall be reduced by the amount of the lump sum workers' compensation benefits. In such case the pension thereafter payable shall be the actuarial equivalent of the pension reserve as so reduced.

No such reduction shall be made, however, for the amount of medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches or apparatus and of any funeral expense provided under the workers' compensation law in addition to regular compensation benefits, or of any legal fees awarded under the workers' compensation law.

b. A final determination of the state workers' compensation board that benefits are payable pursuant to the workers' compensation law by reason of the accidental disability or accidental death of a member of the police and fire retirement system shall not in any respect be, or constitute, a determination that an accidental disability retirement allowance, a disability incurred in performance of duty allowance or an accidental death benefit is payable on account thereof pursuant to the provisions of this article.

TITLE 9

GENERAL PROVISIONS RELATING TO RETIREMENT; RETIREMENT PLANS APPLICABLE TO MEMBERS GENERALLY

Section 370. Superannuation retirement.

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§ 370. Superannuation retirement. a. Any member may retire if such member shall have attained at least the minimum retirement age while in service as a member, or while in federal service, or in the service of the United Nations or other international organizations of which the United States is a member, as a member continued pursuant to paragraph one of subdivision f of section three hundred forty of this article or while entitled to make application for a vested retirement allowance pursuant to section three hundred seventy-six of this title. Any such member desiring to retire shall execute and file with the comptroller an application for retirement, which shall specify the effective date of such member's retirement, which shall be not less than fifteen nor more than ninety days subsequent to such date of filing. An application for service retirement, filed hereunder in accordance with the provisions of subdivision c of section sixty-two or subdivision f of section sixty-three of this chapter, shall be processed in the regular manner, provided that if the application filed simultaneously therewith under either of such subdivisions is granted, then and in that event the retirement allowance granted in accordance with the provisions of this section shall be appropriately adjusted. Notwithstanding any other provision of law, for any member who is eligible to retire, who has died while in active service, and who has filed an application for service retirement less than ninety days prior to death, the member's designated option election beneficiary or beneficiaries, if an option election has been filed prior to death, or the beneficiary or beneficiaries designated for the death benefit, if no option election was filed prior to death, shall have the option to choose the benefit provided by service retirement rather than the death benefit, provided, however that if the designated beneficiary elects the service retirement benefit such person shall be required to choose an option as provided by law. If the member's beneficiary or beneficiaries elect the service retirement benefit, the member shall be deemed to have retired on the day before

the member's date of death. If there are multiple option beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the service retirement under an agreed upon option, the service retirement benefit shall be payable under the option election form filed by the member prior to such member's death. If there are multiple death beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the service retirement under an agreed upon option, the death benefit shall be payable.

b. Any member who attains age seventy shall be retired on the first day of the calendar month next succeeding such event. Such retirement shall be on the basis of "Option One-half", unless the member files an effective election pursuant to section three hundred ninety of this article to retire on a different basis. If he shall have filed such an election, his retirement allowance shall be computed in accordance with the basis so selected by him. The provisions of this subdivision with respect to mandatory retirement shall be inapplicable to a member of this system who is an employee of the port of New York authority who was a member of the state employees' retirement system prior to April first, nineteen hundred sixty-seven.

c. Notwithstanding the provision of subdivision b of this section, the state civil service commission may approve the continuance in service of members who have attained age seventy. Such approvals shall be for periods not to exceed two years each. No such approval shall be given unless:

1. The head of the department in which the member is employed shall file a written statement with the comptroller approving such continuance, and

2. The medical board shall certify that such member is physically fit to perform the duties of his position, and

3. The state civil service commission shall find that:

- (a) Such member is less than seventy-eight years of age, and

- (b) His continuance in service would be advantageous because of his

expert knowledge and special qualifications.

The service of any such member may, however, be terminated at any time by the head of the department in which he is employed, upon sixty days written notice of such member.

§ 370-a. Pensions-for-increased-take-home-pay. a. Beginning with a payroll period commencing as specified by a participating employer electing to contribute pursuant to the provisions of this section the contribution of each member of the police and fire retirement system in the employ of such a participating employer, exclusive of any increase thereof pursuant to subdivision i of section three hundred twenty-one of this chapter or of any reduction thereof pursuant to subdivision one of section one hundred thirty-eight-b of article three of this chapter, shall be reduced by five per centum of the compensation of such member. Beginning with a payroll period commencing as specified by a participating employer, specifically electing, as provided in subdivision c of this section, to contribute at the higher rate pursuant to the provisions of this section the contribution of each member of the retirement system in the employ of such a participating employer, exclusive of any increase thereof pursuant to subdivision i of section twenty-one of this chapter or of any reduction thereof pursuant to subdivision one of section one hundred thirty-eight-b of this chapter, shall be reduced by an additional three per centum of the compensation of such member. Where a member's rate of contribution as so qualified is less than the per centum by which his contribution is reduced, such rate shall be discontinued. Such a reduction or discontinuance, as the case may be, shall:

1. Be subject to waiver by the member as provided in subdivision j of section three hundred twenty-one of this article, as added by this act, and

2. Take precedence over the member's privilege under subdivision one of section one hundred thirty-eight-b of article three of this chapter, to decrease his annuity contribution for the purpose of paying his contributions for old-age, survivors, and disability insurance coverage

of the tax imposed upon him pursuant to the federal insurance contributions act.

aa. Beginning with a payroll period commencing on or after such date, as specified by a participating employer electing to contribute pursuant to the provisions of this subdivision, the contribution of each member of the retirement system in the employ of such a participating employer, whose rate of contribution is in excess of eight per centum, exclusive of any increase thereof pursuant to subdivision i of section three hundred twenty-one of this chapter or of any reduction thereof pursuant to subdivision one of section one hundred thirty-eight-b of this chapter or subdivision a of this section, shall be suspended. In the case of a participating employer any member may by written notice duly acknowledged and filed with the comptroller beginning with the payroll period commencing on or after such date as specified by a participating employer within one year after the effective date of this act or within one year after he last became a member, whichever is later, elect to waive the suspension of his contributions provided by this subdivision. One year or more after the filing thereof, a member may withdraw any such waiver by written notice duly acknowledged and filed with the comptroller. Where a member makes an election to waive the suspension of his contributions as herein provided, he shall contribute to the retirement system as otherwise provided in this chapter. The foregoing provisions of this subdivision shall be inapplicable as to any participating employers other than those who had filed a resolution prior to April first, nineteen hundred sixty-seven, to participate thereunder.

b. For such period of time as the provisions of subdivision a and subdivision aa of this section shall be in effect, contributions shall be made to the pension accumulation fund by or on account of the state and each such participating employer, as provided in sections three hundred sixteen, three hundred seventeen and three hundred forty-two of this article, at a rate fixed by the actuary which shall be computed to be sufficient to provide death benefits and pensions-providing-for-increased-take-home-pay which are or may become payable on account of members in the employ of the state or of such a

participating employer. Such a benefit or pension shall be based on a reserve-for-increased-take-home-pay which shall be equivalent to the per centum of the member's compensation during such period by which his contribution is reduced, or would otherwise be reduced if his rate of contribution equaled or exceeded eight per centum, pursuant to subdivision a of this section, plus in the case of any member in the employ of the state or of any employee of a participating employer who has elected to participate pursuant to the provisions of this section whose rate of contribution before any reduction as provided in subdivision a of this section exceeds eight per centum, the per centum of his compensation during such period by which his contribution is suspended pursuant to subdivision aa, plus regular interest thereon. Commencing with the payroll period which is nearest to April first, nineteen hundred sixty-one, the provisions of this section shall not apply to any member for any period or periods during which he ceases or has ceased contributing toward retirement upon completion of years of service or attainment of specified age pursuant to the provisions of any section of this article, provided, however, that such member shall receive credit pursuant to this section for such period or periods for which he contributes or has contributed toward retirement.

c. By the adoption, filing and approval, where required, of a resolution in the manner, provided by sections three hundred thirty or three hundred thirty-one of this article, as the case may be, a participating employer may elect to make contributions to the pension accumulation fund pursuant to this section for the purpose of providing death benefits and pensions-providing-for-increased-take-home-pay. Such resolution shall specify the first payroll period after the date of such filing for which reductions shall be made pursuant to subdivision a of this section in the contributions of members in its employ and the per centum of their compensation by which their contributions shall be reduced, which shall be five per centum unless eight per centum is specifically elected.

d. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only until the payroll period immediately prior to that the

first day of which is nearest to July first, nineteen hundred seventy-four.

§ 371. Optional retirement at age fifty-five; alternative plan. a. Any member of the police and fire retirement system, who, while a member of the state employees' retirement system, elected to contribute on a basis of retirement at age fifty-five pursuant to section seventy-one of this chapter and who did not withdraw such election as therein provided shall, contribute to the police and fire retirement system at the rate prescribed by such section, and if such member retires under the provisions of such section his retirement allowance shall be computed according to the provisions of such section.

§ 371-a. Optional retirement at age fifty-five; new plan. a. Any member of the police and fire retirement system, who has not by voluntary election on or after April first, nineteen hundred sixty-seven withdrawn the excess contributions authorized by subdivision d of this section, by written notice duly acknowledged and filed with the comptroller on or before December thirty-first, nineteen hundred sixty-seven or within one year after he or she last became a member, whichever is later, may elect to contribute pursuant to this section on the basis of retirement at age fifty-five. After such election the member shall contribute pursuant to this section at the higher rate determined in accordance with this subdivision. Such higher rate shall be determined by the actuary upon the basis of tables adopted by the comptroller and regular interest. Such higher rate shall consist of the member's rate of normal contribution plus an additional rate. Such higher rate shall be computed as the constant proportion of annual compensation which, when deducted from each payment of such member's prospective earnable compensation from the time when he or she last became a member until he or she shall attain age fifty-five, would provide, at such latter time, an annuity equal to one-one hundred twentieth of his or her final average salary for each year of member service rendered or which he or she will have rendered prior to his or her attainment of age fifty-five and for which he or she shall be

entitled to credit. Such higher rate of contribution of a member who is over age fifty-four, at the time of his or her last becoming a member, shall be the same as if his or her age were fifty-four. Where a member elects to contribute pursuant to this section, contributions at such higher rate shall be made from May fifteenth, nineteen hundred sixty-seven or from the date he or she last became a member, whichever is later.

Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

b. In addition to the contributions required by subdivision a, a member who elects to contribute pursuant to this section shall contribute also toward the deficiency in his contributions on account of past member service rendered by him. The amount of such deficiency shall be certified by the actuary and shall be computed as the actuarial equivalent of the additional contributions which such member would have made on account of his past member service if his higher rate of contribution, determined pursuant to subdivision a of this section, had been in effect during the period of such past member service. A member may pay the amount of such deficiency in a lump sum or in such installments as the comptroller shall approve. Any member may make one or more cash payments of one hundred dollars, or any multiple thereof, on account of such deficiency. Any member may by written notice duly acknowledged and filed with the comptroller authorize and require payroll deductions of ten dollars each, or any multiple thereof, to be made on account of such deficiency. One year or more after the filing thereof any such notice may be withdrawn by written notice duly

acknowledged and filed with the comptroller.

c. Notwithstanding any inconsistent provision of sections three hundred seventy-one or three hundred seventy-two of this article, any member who is contributing to the retirement system on the basis of retirement at age fifty-five pursuant to such sections and who, on or before December thirty-first, nineteen hundred sixty-seven, withdraws such election for the purpose of making an election to contribute on the basis of retirement at age fifty-five pursuant to this section, shall contribute pursuant to this section, provided such withdrawal and election is by written notice duly acknowledged and filed with the comptroller. The additional contributions made by any such member pursuant to sections three hundred seventy-one or three hundred seventy-two plus the regular interest thereon shall be applied to the payment of the deficiency in contributions certified by the actuary pursuant to subdivision b of this section. The amount of such additional contributions plus the regular interest thereon which is in excess of the amount necessary to pay such deficiency may be withdrawn by the member at any time prior to retirement.

d. One year or more after the filing thereof, a member may withdraw his election to contribute pursuant to this section on the basis of retirement at age fifty-five. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. Such member thereafter shall contribute on the basis of his rate of normal contribution. Such member, upon application at any time prior to retirement and with the approval of the comptroller, shall be entitled to a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution.

e. The provisions of this section shall be controlling notwithstanding any provisions in this article to the contrary.

§ 372. Optional retirement at age fifty-five; closed plan. a. Any

member of the police and fire retirement system who, while a member of the state employees' retirement system, elected to contribute on a basis of retirement at age fifty-five pursuant to the provisions of section seventy-two of this chapter and who did not withdraw his or her election as therein provided shall contribute to the police and fire retirement system at the rate prescribed by such section, and if such member retires his or her retirement allowance shall be computed according to the provisions of such section.

§ 373. Discontinued service after twenty years. a. Persons who last became members of the New York state and local employees' retirement system before April eighth, nineteen hundred forty-three and became members of the police and fire retirement system on or after April first, nineteen hundred sixty-seven, and who as members of state system became members of this system:

1. Are discontinued from service while a member, through no fault or delinquency on his part, may elect to receive his accumulated contributions or a retirement allowance pursuant to the provisions of paragraph two, three, four or five of this subdivision a, as the case may be, if:

(a) He shall have completed twenty years of total service, and

(b) During the six months immediately preceding such discontinuance, he shall have been in paid service continuously, regularly and without interruption.

2. A retirement allowance granted pursuant to the provisions of this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall consist of;

(1) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of

one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus

(2) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension, beginning at age sixty of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit.

3. If, in addition, the member has attained age forty-five, the retirement allowance granted pursuant to this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall consist of:

(1) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus fifty per centum of the difference between such pension and the pension that would be allowable to him for such service if he were age sixty, plus

(2) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit, plus fifty per centum of the difference between such pension and the pension that would be allowable to him for such service if he were age sixty.

4. If the member is age forty-five, and in addition, has been, at any time, continuously employed for twenty years or more, the retirement allowance granted pursuant to this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the

reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall consist of:

(1) A pension which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension beginning at age sixty of one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus the difference between such pension and the pension that would be allowable to him for such service if he were age sixty, plus

(2) A pension which is the actuarial equivalent at his age at the time of such discontinuance of a pension beginning at age sixty of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit plus the difference between such pension and the pension that would be allowable to him for such service if he were age sixty.

5. If the member shall have attained age fifty and has been, at any time, continuously employed for twenty-five years or more the retirement allowance granted pursuant to this subdivision a shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which together with the annuity, shall equal the retirement allowance which would be payable had the member reached age sixty at the time of discontinuance from such service.

6. Time during which a member was:

(a) Absent on leave without pay after January first, nineteen hundred twenty-one, or

(b) On a preferred eligible list pursuant to section eighty-one of the civil service law or former section thirty-one of such law and after such date, or

(c) Rendering paid or unpaid services to the state or to a

participating employer prior to May twentieth, nineteen hundred fifty-five, for not to exceed four months immediately prior to which and immediately subsequent to which he was in an employment on the basis of which he contributed to the retirement system, shall not constitute an interruption of continuous employment. Such time, however, shall not be counted or included in determining the length of his total service.

b. Persons who last became members of the New York state and local employees' retirement system on or after April eighth, nineteen hundred forty-three and who became members of the police and fire retirement system on or after April first, nineteen hundred sixty-seven or persons who became members of the latter system on or after April first, nineteen hundred sixty-seven, and who:

1. Are discontinued from service while a member, through no fault or delinquency on his part, may elect to receive his accumulated contributions or a retirement allowance pursuant to the provisions of paragraph two of this subdivision b if:

(a) He shall have completed twenty years of total service, and

(b) During the six months immediately preceding such discontinuance, he shall have been in paid service continuously, regularly and without interruption.

2. A retirement allowance granted pursuant to the provisions of this subdivision b shall consist of:

(a) An annuity of equivalent actuarial value to the member's accumulated contributions, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any, and

(c) A pension, to begin immediately, which shall be composed of one or more of the following parts:

(1) One which is the actuarial equivalent, at his age at the time of such discontinuance, of a pension, beginning at age sixty, of one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I, if any, plus

(2) One which is the actuarial equivalent, at his age at the time of such discontinuance, of one-one hundred fortieth of his final average salary multiplied by the number of years for which he has member service credit, plus

(3) If the member shall have attained age fifty, one which equals fifty per centum of the difference between the pension payable to him pursuant to items one and two of this subparagraph (c) and the pension that would be allowable to him were he age sixty.

3. Application shall be made for a discontinued service retirement allowance pursuant to this subdivision b in the same manner and subject to the same conditions which govern applications and elections for superannuation retirement allowances.

§ 374. Procedure for retirement. a. Every application for a retirement allowance or other benefit provided by this article shall be executed and filed with the comptroller. Each such application shall contain such information as the comptroller shall deem necessary.

b. The comptroller shall have exclusive authority to determine all applications for any form of retirement or benefit provided for in this article. He shall examine into the facts of each such application, and to that end, shall have full power and authority to:

1. Employ experts and specialists, and
2. Require the attendance of the applicant and other witnesses, and
3. Require the production of all books, papers, documents and other records pertaining to such inquiry, and
4. Administer oaths and take testimony.

The comptroller shall have the power to issue subpoenas, under his hand, returnable anywhere in the state. Any such subpoena shall be served in the same manner and have the same force and effect as a subpoena issued in an action pending in the supreme court.

c. After making his determination on any application the comptroller forthwith shall mail a written notice thereof to the applicant. Such notice shall be mailed to the address given in such application.

d. At any time within four months after the mailing of such notice, the applicant or his counsel may serve a written demand upon the comptroller for a hearing and redetermination of such application. After the service of such demand, the comptroller shall hold a hearing upon such application at which the applicant may be represented by counsel. The comptroller shall have the same power upon such hearing as upon the original application. After such hearing the comptroller shall make his final determination. A copy thereof shall be mailed to the applicant and his counsel, if any. Such final determination shall be subject to review only as provided in article seventy-eight of the civil practice law and rules.

e. To aid him in passing upon applications for retirement, the comptroller shall use the medical board appointed pursuant to the provisions of section seventy-four of this chapter. Such medical board shall:

1. Arrange for and pass upon all medical examinations required or allowed under the provisions of this article, and

2. Have full power and authority to investigate statements and certificates submitted by or on behalf of a claimant in connection with any application for accidental death benefit, disability retirement or restoration to service thereafter, and

3. Have full power and authority to administer oaths and require sworn statements and testimony with respect to matters under its jurisdiction. The comptroller may designate other doctors to conduct the medical examination required or allowed hereunder. The medical board, in any case in which it shall deem it advisable, may require any such doctor to conduct any such examination and to report in writing his findings thereon to the medical board. The medical board shall thereupon consider

such report. Upon completion of its examination in investigation and after the consideration of the report, if any, of any such other doctor, the medical board shall submit to the comptroller a report of its findings and proceedings which shall include the report, if any, of such other doctor. The report of the medical board shall be admissible in evidence upon any hearing before the comptroller or in connection with any examination or investigation conducted by him pursuant to this article.

f. The comptroller, in any particular case, may designate one of his deputies or any other person to perform the duties imposed upon him by this section.

g. In connection with the proceedings authorized by this section the comptroller shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure.

§ 374-a. Applications and elections; issues due to death.

Notwithstanding any other law, rule or regulation to the contrary, in the event a member dies prior to receipt by the comptroller or the retirement system of his or her application for service retirement, disability retirement or a retirement option election form and such application or form was mailed to the comptroller or retirement system by United States postal service first class mail prior to date of death, the application or form shall be deemed filed on the date of mailing, based upon the legible postmark on the envelope. The comptroller shall have the sole authority to determine whether a postmark is legible for the purpose of this section. Provided, however, no such retirement application or option election form shall be deemed filed with the retirement system on the date of mailing unless actually received by the retirement system as a result of such mailing.

§ 375. Allowance on superannuation retirement. a. Except as otherwise provided by subdivisions b, c or d of this section, upon retirement for superannuation or for any other cause after attainment of age sixty, a

member shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension of one-one hundred fortieth of his final average salary, multiplied by the number of years for which he has member service credit, plus

4. A pension which equals one-seventieth of his final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I. This part shall be granted only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section three hundred forty-one of this article.

b. Upon retirement for superannuation after attainment of age fifty-five and before attainment of age sixty or for any other cause after attainment of age sixty, of a member who is contributing to the retirement system pursuant to section three hundred seventy-two of this article on the basis of retirement at age fifty-five, he shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension for the number of years for which he has member service credit, plus

4. A pension for the number of years for which he has prior service credit and credit for service in war after world war I. This part shall be granted only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section three hundred forty-one of this article.

Each such pension specified in paragraphs three and four of this subdivision b shall be the actuarial equivalent, at the time of such member's retirement, of the pension to which he would have been entitled for such service, had he attained age sixty and not elected to contribute on the basis of retirement at age fifty-five.

c. Upon retirement for superannuation on or after attainment of age fifty-five or for any other cause after attainment of age sixty, of a member who is contributing to the police and fire retirement system on the basis of retirement at age fifty-five pursuant to section three hundred seventy-one of this article, he or she shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension which shall consist of:

(a) A pension of one-one hundred twentieth of final average salary multiplied by the number of years for which he has member service credit for service rendered prior to the attainment of age fifty-five, and

(b) A pension of one-one hundred fortieth of final average salary multiplied by the number of years for which he has member service credit for service rendered after the attainment of age fifty-five, and

(c) A pension of one-sixtieth of final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I for service rendered prior to the

attainment of age fifty-five, and

(d) A pension of one-seventieth of final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I for service rendered after the attainment of age fifty-five.

Subparagraphs (c) and (d) of this paragraph three shall be available only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section three hundred forty-one of this article.

d. Upon retirement for superannuation on or after attainment of age fifty-five or for any other cause after attainment of age sixty, of a member who is contributing to the police and fire retirement system on the basis of retirement at age fifty-five pursuant to section three hundred seventy-one-a of this article, he or she shall receive a retirement allowance which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

3. A pension which shall consist of:

- (a) A pension of one-one hundred twentieth of final average salary multiplied by the number of years for which he has member service credit, and

- (b) A pension of one-sixtieth of final average salary multiplied by the number of years for which he has prior service credit and credit for service in war after world war I.

Subparagraph (b) of this paragraph three shall be available only if the member has credit for one or more years of service as a member. This requirement of one or more years of service as a member shall be subject to waiver as provided in subdivision e of section three hundred forty-one of this article.

§ 375-a. Non-contributory retirement plan for state employees. a.

Notwithstanding any other provision of law to the contrary, no further contributions to the retirement system, as provided in subdivision b of section three hundred twenty-one of this chapter, shall be required of any member in the employ of the state; provided, however, in the case of persons in the employ of the state who last became members on or after July first, nineteen hundred seventy-three, such required contributions shall be waived only until the payroll period immediately prior to that the first day of which is nearest to July first, nineteen hundred seventy-four.

b. Contributions shall be made to the pension accumulation fund by or on account of the state, as provided in section three hundred sixteen, three hundred seventeen and three hundred forty-two of this chapter, at a rate fixed by the actuary which shall be computed to be sufficient to provide the benefits established by section three hundred seventy-five-c of this chapter on account of members in the employ of the state.

c. Nothing contained in this section shall impair the rights of persons, who became members before August nineteenth, nineteen hundred sixty-six, to make contributions pursuant to subdivision i of section three hundred twenty-one of this chapter.

d. Any member who has elected to contribute at a certain rate of contribution in accordance with the provisions of subdivision j of section three hundred twenty-one of this chapter, shall continue to contribute at such rate until his election under said subdivision is withdrawn.

e. Any member in service on August nineteenth, nineteen hundred sixty-six, may by written notice duly acknowledged and filed with the comptroller on or before August eighteenth, nineteen hundred sixty-seven, elect to contribute to the retirement system. Where a member makes an election to contribute, as herein provided for, he shall contribute to the retirement system as otherwise provided in this

chapter. One year or more after the filing of the notice of election to contribute, the member may withdraw such election and elect not to contribute.

§ 375-b. Non-contributory retirement plan for members of participating employers. a. Notwithstanding any other provision of law to the contrary, no further contributions to the retirement system as provided in subdivision b of section three hundred twenty-one of this chapter, shall be required of any member in the employ of such a participating employer electing to participate pursuant to the provisions of this section; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, such required contributions shall be waived only until the payroll period immediately prior to that the first day of which is nearest to July first, nineteen hundred seventy-four.

b. 1. By the adoption, filing and approval, where required of a resolution in the manner provided by sections three hundred thirty or three hundred thirty-one of this chapter, as the case may be, a participating employer who had previously elected to make contributions under the provisions of subdivision aa of section three hundred seventy-a of this chapter, may elect to make contributions to the pension accumulation fund for the purpose of providing a non-contributory retirement plan pursuant to this section.

2. By the adoption, filing and approval, where required, of a resolution in the manner provided by sections three hundred thirty or three hundred thirty-one of this chapter, as the case may be, a participating employer who had not previously elected to contribute under the provisions of subdivision aa of section three hundred seventy-a of this chapter, may elect to make contributions to the pension accumulation fund for the purpose of providing a non-contributory retirement plan pursuant to this section. Such resolution shall specify the first payroll period after the date of such filing for which no further contributions shall be required of members in its employ.

c. Contributions shall be made to the pension accumulation fund by or on account of each participating employer, as provided in sections three hundred sixteen, three hundred seventeen and three hundred forty-two of this chapter, at a rate fixed by the actuary which shall be computed to be sufficient to provide the benefits established by section three hundred seventy-five-c of this chapter on account of members in the employ of such participating employers.

d. Nothing contained in this section shall impair the right of persons, who became members before August nineteenth, nineteen hundred sixty-six, to make contributions pursuant to subdivision i of section three hundred twenty-one of this chapter.

e. Any member who has elected to contribute at a certain rate of contribution in accordance with the provisions of subdivision j of section three hundred twenty-one of this chapter, shall continue to contribute at such rate until his election under said subdivision is withdrawn.

f. Any member in service on August nineteenth, nineteen hundred sixty-six, may by written notice duly acknowledged and filed with the comptroller on or before August eighteenth, nineteen hundred sixty-seven, elect to contribute to the retirement system. Where a member makes an election to contribute, as herein provided for, he shall contribute to the retirement system as otherwise provided in this chapter. One year or more after the filing of the notice of election to contribute, the member may withdraw such election and elect not to contribute.

§ 375-c. Non-contributory retirement plan benefits. a. In addition to any retirement allowance to which a member may be entitled for services rendered at any time other than expressly provided for herein, any member covered by the provisions of sections three hundred seventy-five-a or three hundred seventy-five-b of this chapter shall upon retirement, receive a service retirement pension for the herein

provided period of service, in accordance with the provisions of subdivisions b, c or d hereof, as the case may be, which shall be in lieu of the service retirement pension and the pension for increased-take-home-pay provided for in the sections of this chapter hereinafter referred to.

b. 1. A member who had been contributing for service retirement benefits on the basis of any of the plans contained in sections three hundred seventy-one, three hundred seventy-one-a, three hundred seventy-two or three hundred seventy-five of this chapter, shall receive at retirement, for service rendered on and after April first, nineteen hundred sixty, a pension computed on the basis of one-sixtieth of his final average salary for each year of such service; provided, however, persons who last became members on or after July first, nineteen hundred seventy-three shall receive such pension only for service rendered on and after April first, nineteen hundred sixty and prior to July first, nineteen hundred seventy-four.

2. A member who had been contributing for service retirement benefits on the basis of any of the plans contained in paragraph one hereof, shall receive at retirement, for service rendered before April first, nineteen hundred sixty, a pension computed on the basis of one-one hundred twentieth of his final average salary for each year of credited member service plus one-sixtieth of his final average salary for each such year of credited prior service or service in war after world war I. Notwithstanding anything to the contrary contained in section three hundred seventy-five of this chapter, a member who had been contributing as aforesaid shall be eligible for superannuation retirement upon attainment of age fifty-five.

c. A member contributing for service retirement benefits on the basis of any of the plans contained in the sections numbered three hundred eighty-one, three hundred eighty-one-a, three hundred eighty-two, three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-four, three hundred eighty-five, three hundred eighty-six, three hundred eighty-seven, three hundred eighty-eight, for service rendered on and after April first, nineteen hundred sixty, a pension of

one-fiftieth of his final average salary for each year of such credited service during this period, with the total allowance hereunder determined as defined and limited in the respective sections referred to in this paragraph c and with the additional proviso that any contributions made by the member during the period referred to in this paragraph c shall be used at retirement to provide an additional annuity over and above the retirement allowance otherwise provided, except that persons who last became members on or after July first, nineteen hundred seventy-three shall receive such pension only for service rendered on and after April first, nineteen hundred sixty, and prior to July first, nineteen hundred seventy-four.

d. A member who had been contributing for service retirement benefits on the basis of the plans contained in sections three hundred eighty-four-b, three hundred eighty-four-d or three hundred eighty-five-a of this chapter, shall receive at retirement, for service rendered on and after April first, nineteen hundred sixty a pension of one-fortieth of his final average salary for each year of such credited service during this period, with the total allowance hereunder determined as defined and limited in the section referred to in this paragraph d and with the additional proviso that any contributions made by the member during the period referred to in this paragraph d shall be used at retirement to provide an additional annuity over and above the retirement allowance otherwise provided, except that persons who last became members on or after July first, nineteen hundred seventy-three shall receive such pension only for service rendered on and after April first, nineteen hundred sixty and prior to July first, nineteen hundred seventy-four.

e. In addition to the pension hereinabove provided, a member shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

f. The benefits hereinabove provided shall be payable unless the member would otherwise under the provisions of this chapter be entitled to a greater benefit, in which event, the greater benefit shall be payable.

§ 375-d. Guaranteed retirement benefits for state employees. a. 1. A member of the retirement system in the employ of the state on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight who retires from such employ on or after April first, nineteen hundred sixty-eight, and who is entitled to a pension pursuant to subdivision b of section three hundred seventy-five-c of this chapter, shall receive such an additional pension for member service rendered on or after April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, as will provide, when added to the pension provided pursuant to paragraph two, subdivision b of section three hundred seventy-five-c, and the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, a retirement allowance of one-sixtieth of final average salary for each year of such service. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivors insurance coverage.

2. The additional pension provided under this section shall not be included in computing any pension reserve payable pursuant to the provisions of section three hundred sixty of this chapter.

3. Any accumulated contributions in excess of the amount required to provide the annuity computed pursuant to paragraph one of subdivision a of this section shall be used to increase the member's retirement allowance.

b. A member of the retirement system not in the employ of the state on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight, who thereafter enters or re-enters such employ, shall not be entitled to the additional pension provided under this section for any period of member service rendered on or after

April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, unless he renders two or more years of service in the employ of the state after April first, nineteen hundred sixty-eight, and retires from such employ, except that a member shall retain such eligibility for the additional pension provided by this section that accrued by reason of previous employment immediately prior to employment with the state.

c. The benefits hereinabove provided shall be payable unless the member would otherwise under the provisions of this chapter be entitled to a greater benefit, in which event, the greater benefit shall be payable.

d. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring from state service prior to July first, nineteen hundred seventy-four.

§ 375-e. Guaranteed retirement benefits for employees of participating employers. a. By the adoption, filing and approval, where required, of a resolution in a manner provided by section three hundred thirty or three hundred thirty-one of this chapter, as the case may be, a participating employer who previously elected to make contributions under the provisions of section three hundred seventy-five-b of this chapter, may elect to make contributions to the pension accumulation fund for the purpose of providing guaranteed retirement benefits pursuant to this section for members in its employ who are entitled to a pension pursuant to subdivision b of section three hundred seventy-five-c of this chapter. Such resolution shall specify an effective date which shall be on or after the date of such filing for the commencement of guaranteed retirement benefits.

b. 1. The guaranteed retirement benefit shall consist of an additional pension for member service rendered on or after April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, which when added to the pension provided pursuant to paragraph two,

subdivision b of section three hundred seventy-five-c and the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to such period, computed on the basis of his rate of normal contribution, will provide a retirement allowance of one-sixtieth of final average salary for each year of such service, for members in its employ on the effective date of the aforesaid resolution. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivors insurance coverage.

2. The additional pension provided under this section shall not be included in computing any pension reserve payable pursuant to the provisions of section three hundred sixty of this chapter.

3. Any accumulated contributions in excess of the amount required to provide the annuity computed pursuant to paragraph one of this subdivision shall be used to increase the member's retirement allowance.

c. 1. A member of the retirement system in the employ of such participating employer on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight, who retires from such employ after the effective date of the aforesaid resolution, shall be entitled to, if otherwise eligible, the additional pension provided under subdivision a of this section.

2. A member of the retirement system not in the employ of the participating employer on or after January first, nineteen hundred sixty-eight and prior to April first, nineteen hundred sixty-eight, who thereafter enters or re-enters such employ, shall not be entitled to the additional pension provided under this section for any period of member service rendered on or after April first, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty, unless he renders two or more years of service in the employ of such participating employer after the effective date that such employer elects to provide the benefits under this section, and retires from such employ, except that a

member shall retain such eligibility for the additional pension provided by this section that accrued by reason of previous employment immediately prior to employment with such participating employer.

d. The benefits hereinabove provided shall be payable unless the member would otherwise under the provisions of this chapter be entitled to a greater benefit, in which event, the greater benefit shall be payable.

e. The provisions of this section shall apply to members retiring from service with a participating employer after the effective date of such resolution; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring prior to July first, nineteen hundred seventy-four.

§ 375-f. Career retirement plan for state employees. a. (1) A member of the retirement system in the employ of the state who retires while in such employ on or after April first, nineteen hundred sixty-nine, and who is entitled to a service retirement benefit pursuant to section three hundred seventy-five-c and section three hundred seventy-five-d of this chapter, and who retires with twenty-five or more years of total service, shall have his retirement allowance computed as provided under section three hundred seventy-five-c and section three hundred seventy-five-d, except that the fraction one-fiftieth shall be substituted for the fraction one-sixtieth for each of the first twenty-five years of such service, and that service rendered prior to April first, nineteen hundred thirty-eight shall be included in such computation.

(2) That portion of the pension provided pursuant to the provisions of this section, which is in excess of the pension that the member would have received had this section not been in effect, shall not be included in computing any pension reserve payable pursuant to the provisions of section three hundred sixty of this chapter.

b. A member of the retirement system not in the employ of the state on

April first, nineteen hundred sixty-nine, who thereafter enters or reenters such employ, shall not be entitled to have his retirement allowance computed pursuant to the provisions of this section unless:

(1) Such member renders five or more years of service in the employ of the state after March thirty-first, nineteen hundred sixty-nine and retires from such employ, or

(2) Immediately prior to service with the state, service was rendered while a member of a retirement system maintained by the state or a municipality thereof operating on a sound actuarial basis and subject to the supervision of the department of financial services of this state in a plan which provides service retirement benefits equal or superior to those provided under this section and at the date of his retirement such member would have been eligible for such benefits had he not separated from service with such employer.

c. A member eligible for a vested retirement allowance pursuant to the provisions of section three hundred seventy-six, who separates from the employ of the state on or after April first, nineteen hundred sixty-nine with twenty-five or more years of total service, and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance, be entitled to have such allowance computed in the manner prescribed by this section.

d. In addition to the retirement allowance provided pursuant to the plans set forth in sections three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-three-b and three hundred eighty-three-d of this article, a member of any such plan who retires on or after April first, nineteen hundred sixty-nine with more than twenty-five years of total service shall be entitled to receive, in addition to the benefits provided pursuant to any such section and notwithstanding the limitations of any such section, an additional retirement allowance for such years of service rendered in excess of twenty-five. The additional retirement allowance for such additional years of service shall be computed as if such member had been eligible to have his retirement allowance computed pursuant to the provisions of

subdivision b of section three hundred seventy-five-c and of paragraph one of subdivision a of section three hundred seventy-five-d of this title.

e. The benefits hereinabove provided shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this chapter, in which event the greater benefit shall be payable.

f. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring or separating in vested status from state service prior to July first, nineteen hundred seventy-four.

§ 375-g. Career retirement plan for employees of participating employers. a. (1) By the adoption, filing and approval, where required, of a resolution in a manner provided by section three hundred thirty or three hundred thirty-one of this chapter, as the case may be, a participating employer who previously elected to make contributions under the provisions of section three hundred seventy-five-b and section three hundred seventy-five-e of this chapter, may elect to make contributions to the pension accumulation fund for the purpose of providing the career retirement plan pursuant to this section. A member of the retirement system in the employ of a participating employer who has elected to provide the career retirement plan who retires while in such employ on or after April first, nineteen hundred sixty-nine, and who is entitled to a service retirement benefit pursuant to section three hundred seventy-five-b and section three hundred seventy-five-e of this chapter, and who retires with twenty-five or more years of total service, shall have his retirement allowance computed as provided under section three hundred seventy-five-b and section three hundred seventy-five-e, except that the fraction one-fiftieth shall be substituted for the fraction one-sixtieth for each of the first twenty-five years of such service, and that service rendered prior to April first, nineteen hundred thirty-eight shall be included in such computation.

(2) That portion of the pension provided pursuant to this section, which is in excess of the pension that the member would have received had this section not been in effect, shall not be included in computing any pension payable pursuant to section three hundred sixty of this chapter.

b. A member of the retirement system not in the employ of a participating employer who has elected to provide the career retirement plan on the date the employer's election to participate in this plan pursuant to subdivision f of this section becomes effective who thereafter enters or reenters such employ, shall not be entitled to have his retirement allowance computed pursuant to the provisions of this section unless:

(1) Such member renders five or more years of service in the employ of such participating employer after the date the employer's election to participate in this plan pursuant to subdivision f of this section becomes effective and retires from such employ, or

(2) Immediately prior to service with such participating employer, service was rendered while a member of a retirement system maintained by the state or a municipality thereof operating on a sound actuarial basis and subject to the supervision of the department of financial services of this state in a plan which provides service retirement benefits equal or superior to those provided under this section and at the date of his retirement such member would have been eligible for such benefits had he not separated from service with such employer.

c. A member eligible for a vested retirement allowance pursuant to section three hundred seventy-six, who, on or after April first, nineteen hundred sixty-nine with twenty-five or more years of total service, separates from the employ of a participating employer who has elected to provide the career retirement plan and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance, be entitled to have such allowance computed in the manner prescribed by this section.

d. The benefits hereinabove provided shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this chapter, in which event the greater benefit shall be payable.

e. The provisions of this section shall apply to members who retire or separate in vested status from service with the participating employer who has elected to provide the career retirement plan; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those retiring prior to July first, nineteen hundred seventy-four.

f. A participating employer who, within thirty days of the date this section becomes law, files a resolution electing to make contributions to the pension accumulation fund for the purpose of providing the career retirement plan pursuant to this section may specify April first, nineteen hundred sixty-nine as the date for the commencement of such plan. A resolution filed more than thirty days after the date this section becomes law shall specify an effective date for the commencement of the career retirement plan, which effective date shall be on or after the date of such filing, provided, however, that a participating employer who elects to provide the benefits enumerated in section three hundred seventy-five-i of this article may specify the same effective date for this section.

§ 375-h. Career retirement plan for state employees; new plan. a. A member of the retirement system in the employ of the state may retire on or after attainment of age fifty-five and receive a retirement allowance consisting of the following, provided he has twenty or more years of total service:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

2. A pension of one-fiftieth of final average salary for each year of

service after March thirty-first, nineteen hundred sixty, and

3. A pension which, when added to the annuity which is the actuarial equivalent of the member's accumulated contributions attributable to years of service prior to April first, nineteen hundred sixty computed on the basis of his rate of normal contribution, shall provide a retirement allowance of one-fiftieth of final average salary for each year of service prior to April first, nineteen hundred sixty. For the purpose of computing the pension described in this paragraph, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivor's insurance coverage. For the purpose of computing the annuity described in this paragraph the rate of normal contribution for a member who (i) transferred into the retirement system shall not be less than the rate the member would have had if all his service had been rendered as a member of the retirement system, or (ii) is in a special service plan, or transfers into this plan from a special service plan, shall be the rate established for him under such plan.

b. That portion of the pension reserve provided pursuant to the provisions of this section which is in excess of the pension reserve that would have been established had this section not been in effect shall not be included in computing any pension reserve payable pursuant to the provisions of section three hundred sixty of this chapter.

c. A member of the retirement system who enters or reenters the employ of the state on or after April first, nineteen hundred sixty-nine, shall not be entitled to have his retirement allowance computed pursuant to the provisions of this section unless:

(1) Such member renders five or more years of service in the employ of the state after such entry or reentry, or

(2) Immediately prior to service with the state, service was rendered while a member of a retirement system maintained by the state or a municipality thereof, operating on a sound actuarial basis and subject to the supervision of the department of financial services of this

state, in a plan which provides service retirement benefits equal or superior to those provided under this section and at the date of his retirement such member would have been eligible for such benefits had he not separated from service with such employer.

d. A member eligible for a vested retirement allowance pursuant to the provisions of section three hundred seventy-six of this chapter who separates from the employ of the state on or after April first, nineteen hundred seventy with twenty or more years of total service, and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance be entitled to have such allowance computed in the manner prescribed by this section.

e. In addition to the retirement allowance provided pursuant to the plan set forth in section three hundred eighty-one an employee who is a member of such plan, but is not a member of the state police, who retires on or after April first, nineteen hundred seventy with more than twenty-five years of total service shall be entitled to receive, in addition to the benefits provided pursuant to such section and notwithstanding the limitations of such section, an additional retirement allowance for such years of service rendered in excess of twenty-five. The additional retirement allowance for such additional years of service shall be computed as if such member had been eligible to have his retirement allowance computed pursuant to provisions of subdivision b of section three hundred seventy-five-c and of paragraph one of subdivision a of section three hundred seventy-five of this chapter, provided, however, if such a member retires after attaining age fifty-five the fraction one-fiftieth shall be substituted for the fraction one-sixtieth.

f. A member in the employ of the state on March thirty-first, nineteen hundred seventy shall be entitled to have his retirement allowance computed on the basis of the provisions of section three hundred seventy-five-f of this chapter if a greater benefit would have been provided under such provisions.

g. The benefits hereinabove provided shall be payable to a member, including a member covered by the provisions of section three hundred eighty-three, three hundred eighty-three-a or three hundred eighty-three-b of this article who is not in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law, unless such member would otherwise be entitled to a greater benefit under such other provisions of this article, in which event such greater benefit shall be payable.

h. The pension provided pursuant to the provisions of this section, or such pension when combined with the pension payable pursuant to other provisions of this article, shall in no event result in a member receiving a pension in excess of seventy-five per centum of his final average salary.

i. The provisions of this section shall not apply to members of the state police.

j. The provisions of this section shall apply to members retiring or separating in vested status from service of the state on or after April first, nineteen hundred seventy.

§ 375-i. Improved career retirement plan for employees of participating employers. a. A participating employer which has elected, or which elects, pursuant to section three hundred thirty or three hundred thirty-one of this article to provide the benefits of the career retirement plan for its employees as specified in section three hundred seventy-five-g of this article may elect pursuant to section three hundred thirty-three of this article to reduce the number of years of total service required for career retirement benefits to twenty and have the fraction one-fiftieth of final average salary used to calculate the entire benefit for all years of credited service for such eligible members, provided, however, the maximum pension payable pursuant to this section shall not exceed three-quarters of final average salary. A member eligible for a vested retirement allowance pursuant to the

provisions of section three hundred seventy-six of this chapter who separates from employment on or after April first, nineteen hundred seventy with twenty or more years of total service, and who would have been eligible to have his retirement allowance computed pursuant to the provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance be entitled to have such allowance computed in the manner prescribed by this section.

b. The benefits hereinabove provided shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this chapter, in which event the greater benefit shall be payable.

c. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall be applicable only to those retiring or separating in vested status prior to July first, nineteen hundred seventy-four.

§ 375-j. Improved career retirement plan for employees of participating employers. a. A participating employer which has elected, or which elects, pursuant to section three hundred thirty or three hundred thirty-one of this article to provide the benefits of the career retirement plan for its employees as specified in section three hundred seventy-five-g of this article may elect pursuant to section three hundred thirty-three of this article to reduce the number of years of total service required for career retirement benefits to twenty and have the fraction one-fiftieth of final average salary used to calculate the entire benefit for all years of credited service for such eligible members, provided, however, the maximum pension payable pursuant to this section shall not exceed three-quarters of final average salary. A member eligible for a vested retirement allowance pursuant to the provisions of section three hundred seventy-six of this article who separates from employment on or after April first, nineteen hundred seventy with twenty or more years of total service, and who would have been eligible to have his retirement allowance computed pursuant to the

provisions of this section had he at the time of separation attained age fifty-five, shall at the time he becomes eligible to receive the vested retirement allowance be entitled to have such allowance computed in the manner prescribed by this section. In no event shall such annual service be continued after a member has attained the age of sixty-two.

b. The benefits hereinabove provided shall be payable unless the member would otherwise be entitled to a greater benefit under other provisions of this chapter, in which event the greater benefit shall be payable.

c. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall be applicable only to those retiring or separating in vested status prior to July first, nineteen hundred eighty-six.

d. A demand in collective negotiations for the improved career retirement plan provided by this section shall not be subject to the provisions of paragraph (b) or (c) of subdivision four of section two hundred nine of the civil service law.

§ 376. Vested retirement allowance. a. A member who discontinues service other than by death or retirement:

1. who has credit for at least five years of total service, or

2. who has credit for at least five years of total service, including a minimum of five years of member service during which the member contributed to the system and/or participated in an increased-take-home-pay or non-contributory plan, and who does not withdraw his or her accumulated contributions, shall be entitled to make application pursuant to section three hundred seventy of this article for a vested retirement allowance to be effective on or after the first day of the month following his or her attainment of sixty years of age, or sixty-three years of age for a member who first becomes a member of the New York state and local police and fire retirement system on or

after April first, two thousand twelve. The retirement allowance provided by this section shall vest automatically upon such discontinuance of service by such member.

3. In the case of such a member who discontinues service other than by death or retirement after March thirty-first, nineteen hundred sixty-six, who had been contributing toward and/or participating in an increased-take-home-pay or non-contributory plan for retirement on a basis other than retirement at age sixty for five years preceding his or her discontinuance of service, he or she shall be entitled to make application for a vested retirement allowance to be effective on or after the first day of the month following his or her attainment of fifty-five years of age, or sixty-three years of age for a member who first becomes a member of the New York state and local police and fire retirement system on or after April first, two thousand twelve.

b. The vested retirement allowance shall be computed and paid in accordance with the provisions of the plan of which the member had been a participant provided, however, that if the service fraction used to compute the retirement allowance or the pension provides a benefit greater than that which would have been provided had the service fraction one-sixtieth been used to compute the benefit, the service fraction one-sixtieth shall be used to compute the vested retirement allowance unless such plan shall specify another fraction to be used to compute the vested retirement allowance. The vested retirement allowance shall not be paid before the member attains age fifty-five, or sixty-three years of age for a member who first becomes a member of the New York state and local police and fire retirement system on or after April first, two thousand twelve.

c. In the event of the death of such member prior to the effective date of his retirement his accumulated contributions shall be paid to his beneficiary or estate in accordance with section three hundred fifty-one of this article.

d. A member may withdraw his accumulated contributions at any time subject to the limitations contained in section three hundred fifty-one

of this article. The withdrawal of a member's accumulated contributions shall terminate his right to a vested retirement allowance.

§ 378. Supplemental retirement allowance. a. A supplemental retirement allowance shall be paid to pensioners of the retirement system who have retired prior to the calendar year nineteen hundred ninety-four. Such supplemental retirement allowance shall be payable on the basis provided for herein, commencing with a payment for the month of September, nineteen hundred ninety-nine and continuing through the month of August, two thousand. Said supplemental retirement allowance shall be a percentage of the retirement allowance otherwise payable, computed without optional modification. Said percentage, for each calendar year of retirement, is set forth in subdivision b of this section. Said supplemental retirement allowance shall be computed on the basis of the first fourteen thousand dollars of such annual retirement allowance and shall be payable commencing September first, nineteen hundred ninety-nine to all disability pensioners, and to other pensioners who have attained age sixty-two or who have been retired for ten years or more and have attained age fifty-five.

b. In calculating the supplemental retirement allowance in accordance with subdivision a of this section, the following percentages will be used for each calendar year of retirement, as appropriate:

Calendar year of retirement	Percentage
1993	1.5
1992	1.5
1991	1.5
1990	1.5
1989	2.8
1988	3.7
1987	4.5
1986	5.5
1985	6.3
1984	7.4
1983	8.3
1982	10.5

1981	12.5
1980	15.6
1979	19.9
1978	25.4
1977	30.3
1976	37.8
1975	42.5
1974	54.0
1973	73.0
1972	86.0
1971	96.7
1970	105.0
1969	141.8
1968	169.0
1967	195.9
1966	203.7
1965	230.5
1964	254.5
1963	278.6
1962	310.0
1961	330.0
1960	340.0
1959	390.0
1958	427.3
1957	442.3
1956	460.2
1955	468.6
1954	466.5
1953	470.7
1952	475.0
1951	486.1
1950	532.3
1949	540.3
1948	532.3
1947	583.4
1946	681.5
1945	746.6

1944	765.9
1943	780.9
1942	834.9
1941	936.7
1940	988.5
1939	996.4
1938	980.8
1937	958.3
1936	996.4
1935	1012.4
1934	1037.3
1933	1072.3
1932	1012.4
1931	902.6
1930	812.5

c. The supplemental retirement allowance shall be rounded off to the nearest dollar.

d. The benefits hereinabove provided for shall be in lieu of the benefits presently provided by articles four and six of this chapter unless such benefits are in excess of those provided by this section, in which latter case such benefits shall be paid by the retirement system pursuant to this section.

e. Contributions shall be made to the pension accumulation fund by, or on account of, the state and each participating employer at a rate fixed by the actuary, which shall be computed to be sufficient to provide the benefits established by this section.

f. The supplemental retirement allowance authorized by this section shall also be paid in the same manner set forth above to a police officer and firefighter sixty-two years of age or older who is retired, or any person retired for disability regardless of age, or any spouse qualifying pursuant to subdivision h of this section, and who receives, as a result, a retirement allowance or pension from any state administered and operated retirement or pension plan or system, not

including, however, the New York state teachers retirement system.

g. The cost of providing supplemental retirement allowance payments pursuant to subdivision f of this section shall be paid from the supplemental pension fund, and the comptroller shall include with his budget estimate furnished to the governor for each fiscal year, amounts estimated by him to be sufficient to reimburse the supplemental pension fund for such payments. No monies belonging to any publicly administered and operated retirement or pension system or plan shall be appropriated or used for any purpose or for any payment authorized or required by subdivision f of this section.

h. Notwithstanding any other provision of law, (i) the spouse of a deceased pensioner, who had elected one of the options pursuant to this chapter which provides that benefits are to be continued for the life of such spouse after the death of the pensioner, or (ii) the spouse of a deceased pensioner who had provided pursuant to a closed local pension plan which was subsequently assumed by the state, that benefits are to be continued for the life of such spouse after the death of the pensioner, shall be entitled to receive a monthly supplemental retirement allowance pursuant to this subdivision. Said monthly supplemental retirement allowance shall be equal in amount to one-half of the monthly supplemental retirement allowance which the pensioner would be receiving if living and shall commence upon the death of the pensioner.

§ 378-a. Cost-of-living adjustment. a. A cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age sixty-two and have been retired for five years; (ii) all pensioners who have attained age fifty-five and have been retired for ten years; and (iii) all disability pensioners regardless of age who have been retired for five years.

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of

this section and any prior year's cost-of-living adjustment derived from this section. Said percentage is set forth in subdivision d of this section.

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section.

d. The percentage referred to in this section shall be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent.

e. Said cost-of-living adjustment shall be payable in monthly installments and shall take effect September first of each year commencing with a payment for the month of September, two thousand one, or, if later, as soon as practicable after the retired member first becomes eligible to receive the benefits provided pursuant to subdivision a of this section.

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
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1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section three hundred seventy-eight of this title.

g. Notwithstanding any other provision of law, the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be fifty percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand, or (ii) the month following the death of the deceased retired member, whichever is later.

h. The benefits provided pursuant to this section shall be in lieu of the benefits presently provided by section five hundred ten or article four or six of this chapter unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

§ 379. Cafeteria plans. To the extent permitted by section one hundred twenty-five of the internal revenue code and any regulations adopted pursuant thereto, any salary reduction elected by an employee who is a participant in the New York state and local police and fire retirement system under a cafeteria plan or flexible benefit plan shall be considered part of the annual compensation for the purpose of

computing employer and employee retirement plan contributions and for computing retirement benefits.

TITLE 10

SPECIAL RETIREMENT PLANS APPLICABLE TO SPECIFIED CLASSES OF MEMBERS

- Section 381. Retirement of members in the division of state police; closed plan.
- 381-a. Retirement of members or officers of the state police; new plan.
- 381-b. Retirement of members or officers of the state police; twenty year retirement plan.
382. Optional retirement of members in the division of state police after twenty years of service.
383. Retirement of members in regional state park police service.
- 383-a. Retirement of members of the regional state park police; new plan.
- 383-b. Retirement of members of the division of law enforcement in the department of environmental conservation.
- 383-b*2. Retirement of members of the capital police force in the office of general services.
- 383-c. Optional retirement of members holding the position of forest ranger in the service of the department of environmental conservation.
- 383-d. Alternative retirement benefits for university police officers appointed by the state university.
- 383-e. Retirement of officers of state law enforcement; twenty year retirement plan.
- 383-f. Retirement of officers of state law enforcement; alternative twenty-five year retirement plan.
384. Optional retirement of certain police officers and firefighters.
- 384-a. Additional pension benefits for certain police officers after twenty-five years of service.
- 384-b. Retirement of members of the police department of the

- city of Glen Cove, after twenty years of service.
- 384-c. Additional pension benefits for certain police officers after twenty-five years of service.
- 384-d. Optional twenty year retirement plan for certain firefighters and police officers whose employer elects to provide same.
- 384-e. Additional pension benefit for members of optional twenty year retirement plan.
- 385. Retirement of members in the Nassau county police department.
- 385-a. Retirement of members of the Nassau county police force; new plan.
- 386. Retirement of members in the Westchester county department of public safety services; closed plan.
- 387. Retirement of members in the Suffolk county police force.
- 387-a. Retirement of members of the Suffolk county police force; new plan.
- 388. Retirement of members in the city of Yonkers police force and fire department.
- 389. Twenty year retirement plan for LIRR police officers.

§ 381. Retirement of members in the division of state police; closed plan. a. Any member in the division of state police in the executive department who elected on or before January first, nineteen hundred forty-nine, to contribute to the New York state employees' retirement system pursuant to the provisions of former section eighty-one of this chapter in force prior to April first, nineteen hundred sixty-seven, shall contribute to the police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of total service in such division, or
2. Attainment of age sixty in the service of such division, if prior thereto,

on an allowance of one-fiftieth of his final average salary for each year of total service in such division not in excess of twenty-five years, provided such election was in writing and duly executed and filed with the comptroller.

b. Every employee who entered or re-entered service in the division on or after April sixteenth, nineteen hundred thirty-eight, and before July first, nineteen hundred fifty-four, shall contribute on the basis provided for by this section. Every employee who entered or re-entered service in such division on or after July first, nineteen hundred fifty-four and before May first, nineteen hundred sixty-one, and who, at such time undertakes employment therein:

1. As a member or officer of the state police shall contribute on the basis provided for by this section and, (in addition to credit pursuant to subdivision g of this section and for service in war after world war I, as defined in section three hundred two of this article, credited as service as such a member or officer), only credit for service as a member or officer of the state police shall be included in computing years of state police service for retirement pursuant to this section.

2. Other than as a member or officer of the state police, shall not contribute on the basis provided for by this section and shall not be eligible to the benefits of this section on the basis of service so rendered.

c. Subject to the provisions of subdivisions a and b of this section, every employee in the service of such division who is not a member of the police and fire retirement system may elect to become a member. He or she thereupon shall contribute to the retirement system under the provisions of this section and be entitled to benefits as provided in this section. No such employee, however, shall be given credit for service rendered prior to April sixteenth, nineteen hundred thirty-eight, unless he or she became a member of the state employees' retirement system on or before January first, nineteen hundred forty-nine. Any such employee who becomes a member on or before January first, nineteen hundred forty-nine, shall be entitled to credit for past

service in the division as if he or she had become a member when first eligible. Such employee, however, shall pay the contributions he or she would have made prior to such date had he or she been a member during such service. The amount of such contributions shall be paid in a lump sum or in such installments as the comptroller shall approve. In lieu of such payment, however, such employee may receive on retirement the benefit otherwise provided by this section, less such annuity as is the actuarial equivalent of such unpaid contributions.

d. A member who elected or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member rendered after April sixteenth, nineteen hundred thirty-eight, and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in such division, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, on retirement, a retirement

allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

3. A pension of one-one hundredth of his final average salary for each year of service rendered:

(a) Since he last became a member, and

(b) Prior to the completion of twenty-five years of total service in the division, and

(c) Toward which he and his employer have contributed under this section, plus

4. An additional pension of one-fiftieth of his final average salary, multiplied by the number of years of total service in such department prior to April sixteenth, nineteen hundred thirty-eight. This pension shall be payable only if such member has had one or more years of service as a member. The computation of this pension shall be subject to the further conditions that:

(a) The service rendered prior to April sixteenth, nineteen hundred thirty-eight, shall be limited so that the total service in such division used as a basis for pension credit under this paragraph four and paragraph three of this subdivision e shall not exceed twenty-five years, and

(b) The amount of the additional pension payable pursuant to this paragraph four shall not exceed the amount needed to increase the total amount of the benefits provided under paragraphs one and three of this subdivision e to one-half of the final average salary, plus

5. An additional pension equal to the pension for any creditable service rendered while not an employee of the division as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service in the division for which he receives credit under this article, and

(b) Not increase the total allowance to more than he would have received had his total service been rendered in the division.

f. The increased pensions to members of the division, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution of each member who elects the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the police and fire retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him or her to the superintendent of state police. The amount thereof shall be included in the annual appropriation of the state for state police. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system.

g. In computing the twenty-five years of completed service of a member in the division, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president for Mexican border service.

h. The provisions of this section shall be controlling notwithstanding any provision in this chapter to the contrary.

i. Notwithstanding any provisions of subdivision b of this section to

the contrary, an employee who is required to contribute in accordance with this section, but is not a member of the state police, may, on or before March thirty-first, nineteen hundred seventy-three, elect to come under the provisions of section seventy-five-h of this chapter. Such election shall be duly executed and filed with the comptroller.

§ 381-a. Retirement of members or officers of the state police; new plan. a. Every member or officer of the division of state police in the executive department who enters or re-enters service in the division on or after May first, nineteen hundred sixty-one shall contribute to the police and fire retirement system in the manner provided for by this section.

b. Every member or officer of the division of state police who entered such service prior to May first, nineteen hundred sixty-one and who contributed under former section eighty-one-a of this chapter, in effect prior to April first, nineteen hundred sixty-seven shall contribute on the basis provided for by this section.

c. A member who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his or her compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he or she shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his or her final average salary for each year of service as a member of the state employees' retirement system or the police and fire retirement system rendered after April sixteenth, nineteen hundred thirty-eight, and prior to the attainment of the age when he or she shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his or her employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay. No such member shall continue to make contributions after completing twenty-five years of

such service.

d. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in such division, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article.

1. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

2. Upon attainment of age sixty and upon retirement without completion of twenty-five years of such service, each such member shall receive a pension which together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-fiftieth of his final average salary for each year of creditable service in such division. Every such member shall also be entitled to an additional pension equal to the pension for any creditable service rendered while not an employee of the division as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of his final average salary.

For the purpose only of determining the amount of the pension provided in this subdivision, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan,

and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his or her annuity contributions to the police and fire retirement system in order to apply the amount of such reduction in payment of his or her contributions for old-age and survivors insurance coverage.

e. The increased pensions to members of the division, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution required for each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the police and fire retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him or her to the superintendent of state police. The amount thereof shall be included in the annual appropriation of the state for the division of state police. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the police and fire retirement system.

f. In computing the twenty-five years of completed service of a member in the division, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president for Mexican border service.

g. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 381-b. Retirement of members or officers of the state police; twenty year retirement plan. a. Membership. Every member or officer of the division of state police in the executive department who enters or re-enters service in the division on or after April first, nineteen hundred sixty-nine, and every investigator or sworn officer employed by the commission created by section six of chapter eight hundred eighty-two of the laws of nineteen hundred fifty-three, constituting the waterfront commission act, as amended, on or after July first, two thousand twenty-three, and every investigator or sworn officer employed by the New York Waterfront Commission in the executive department shall be covered by the provisions of this section, and every member or officer of the division of state police in the executive department in such service on such date may elect to be covered by the provisions of this section by filing an election therefor with the comptroller on or before March thirty-first, nineteen hundred seventy-two. To be effective, such election must be duly executed and acknowledged on a form prepared by the comptroller for that purpose.

b. Retirement allowance. A member, covered by the provisions of this section at the time of retirement, shall be entitled to retire upon completion of twenty years of total creditable service in such division, and shall retire upon the attainment of the mandatory retirement age prescribed by this section, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article.

(1) Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity for such years of service as provided in paragraph four of this subdivision, shall be sufficient to provide him with a retirement allowance of one-half of his final average salary.

(2) Upon completion of more than twenty years of such service and upon retirement, each such member shall receive, for each year of service in excess of twenty, an additional pension which, together with an annuity for each such year as provided in paragraph four of this subdivision, shall be equal to one-sixtieth of his final average salary, provided, however, that the pension payable pursuant to this section shall not

exceed three-quarters of final average salary.

(3) Upon attainment of the mandatory retirement age without completion of twenty years of such service, each such member shall receive a pension which, together with an annuity for such years of service as provided in paragraph four of this subdivision, shall be equal to one-fortieth of his final average salary for each year of creditable service in such division. Every such member shall also be entitled to an additional pension equal to the pension for any creditable service rendered while not an employee of the division as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of his final average salary.

(4) The annuity provided under paragraphs one, two and three of this subdivision shall be the actuarial equivalent, at the time of retirement, of the member's accumulated contributions based upon the rate of contribution fixed under the provisions of subdivision c of section three hundred eighty-one-a of this article and upon the salaries earned while in such service rendered after April sixteenth, nineteen hundred thirty-eight and prior to April first, nineteen hundred sixty. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivor's insurance. Any accumulated contributions in excess of the amount required to provide the annuity computed pursuant to this paragraph shall be used to increase the member's retirement allowance.

(5) Notwithstanding the provisions of this subdivision, members transferred to the division of state police pursuant to a chapter of the laws of nineteen hundred ninety-seven, upon retirement shall receive either the allowances provided by this subdivision or those provided under the retirement system to which they participated prior to such transfer whichever allowance shall be the higher.

c. Credit for previous police service. (1) Police service. In computing the years of total creditable service in such division, full credit shall be given and full allowance shall be made:

(i) for service rendered as a police officer or member of a police force or department of a state park authority or commission or an organized police force or department of a county, city, town, village, police district, authority or other participating employer or member of the capital police force in the office of general services while a member of the New York state and local police and fire retirement system, of the New York state and local employees' retirement system or of the New York city police pension fund;

(ii) for service rendered as an investigator or sworn officer of the waterfront commission of New York harbor, for service rendered as an investigator or sworn officer of the New York Waterfront Commission, for service rendered as an investigator-trainee of the waterfront commission of New York harbor, and for service rendered as an investigator-trainee of the New York Waterfront Commission, that was creditable under subdivision w of section three hundred eighty-four-d of this article; and

(iii) for all service for which full credit has been given and full allowance made pursuant to the provisions of section three hundred seventy-five-h of this chapter provided, however, that full credit pursuant to the provisions of such section shall mean only such service as would be creditable service pursuant to the provisions of section three hundred eighty-three or section three hundred eighty-three-a or three hundred eighty-three-b enacted by chapter six hundred seventy-seven of the laws of nineteen hundred eighty-six of this chapter or pursuant to the provisions of title thirteen of the administrative code of the city of New York for any member contributing pursuant to this section who transferred to the division of state police.

(2) State university police officer service. Upon completion of more than twenty years of service, and upon retirement, each such member who was previously credited with service credit in the New York state and local employees' retirement system or the New York state and local police and fire retirement system as an officer appointed by the state university pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law and who has successfully completed a course of law enforcement training as provided in such section of the education law or for any such officer who retires on and after January first, two thousand eighteen who has successfully

completed such course of law enforcement training within two years of his or her date of appointment shall receive for each such year of previous service, up to a total of no greater than five years of previous service, additional service credit equal to one-sixtieth of his or her final average salary.

d. Retirement for cause. Upon receipt of a certificate of the superintendent of state police, pursuant to section two hundred twenty-nine of the executive law, a member who has accrued twenty-five or more years of service credit under this section shall be retired on the first day of the second month next succeeding the date such certificate was filed with the comptroller.

e. Mandatory retirement. A member subject to the provisions of this section shall be retired on December thirty-first of the year in which such member attains sixty-three years of age.

Notwithstanding the foregoing, any member in service in the division on August fifteenth, two thousand seven, and who on that date was entitled to receive retirement benefits on the thirty-first day of December in the year in which such member attained fifty-seven years of age as provided in paragraph three of subdivision b of this section, may elect to retain such entitlement, provided the member remains in service on the thirtieth day of December in the year in which such member attains fifty-seven years of age, and any member in service in the division on August thirty-first, two thousand twenty-five, and who on that date was entitled to receive retirement benefits on the thirty-first day of December in the year in which such member attained sixty years of age as provided in paragraph three of subdivision b of this section, may elect to retain such entitlement, provided the member remains in service on the thirtieth day of December in the year in which such member attains sixty years of age. The provisions of this subdivision shall not apply to the superintendent.

f. Credit for military service. In computing the years of total creditable service in the division of state police full credit shall be given and full allowance shall be made for service of such member in war

after world war I as defined in section three hundred two of this article, provided such member at the time of his entrance into the armed forces was in police service as defined in subdivision eleven of section three hundred two of this article.

g. Transfer of membership to employees' retirement system. Any member currently enrolled pursuant to this section and who previously transferred service credit from the New York state and local employees' retirement system to the New York state and local police and fire retirement system, may elect to transfer such previously transferred service credit back to the New York state and local employees' retirement system, and such member shall have the option to retroactively transfer his or her membership into such employees' retirement system.

§ 382. Optional retirement of members in the division of state police after twenty years of service. a. Any member in the division of state police in the executive department shall be entitled to retire after the completion of twenty years of total creditable service in such division, or upon attainment of age sixty in such division if prior thereto, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. Upon so retiring such member shall receive:

1. If he elected or was required to contribute in accordance with the provisions of section three hundred eighty-one or section three hundred eighty-one-a of this article, a retirement allowance equal to the present value of a retirement allowance computed upon such period of service in accordance with the provisions of such sections, or

2. If he did not elect or was not required to contribute in accordance with the provisions of section three hundred eighty-one or section three hundred eighty-one-a of this article, a retirement allowance equal to the present value of a retirement allowance computed upon such period of service in accordance with the provisions of section three hundred seventy-five of this article.

b. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 383. Retirement of members in regional state park police service. a. As used in this section the term "regional state park police service" shall mean service in full time police duty as a park patrolman, officer or member of any police force of a regional state park commission.

b. Any member of the police and fire retirement system in regional state park police service may elect to contribute to the police and fire retirement system on the basis of retirement upon his or her

1. Completion of twenty-five years of total service in regional state park police service, or

2. Attainment of age sixty in regional state park police service, if prior thereto,
on an allowance of one-fiftieth of his final average salary for each year of total service in regional state park police service, not in excess of twenty-five years. Such election shall be in writing and shall be duly executed and filed with the comptroller.

c. Every employee entering or re-entering regional state park police service on or after April first, nineteen hundred forty-nine shall contribute on the basis provided for by this section.

d. A member who elects or is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member rendered after April first, nineteen hundred forty-nine and prior to the attainment of the age when he shall first become eligible

for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in regional state park police service, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive on retirement a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

3. A pension of one-one hundredth of his final average salary for each year of service rendered:

- (a) Since he last became a member, and

- (b) Prior to the completion of twenty-five years of total service in regional state park police service, and

- (c) Toward which he and his employer have contributed under this section, plus

4. An additional pension of one-fiftieth of his final average salary,

multiplied by the number of years of total service in regional state park police service prior to April first, nineteen hundred forty-nine. This pension shall be payable only if such member has had one or more years of service as a member. The computation of this pension shall be subject to the further conditions that:

(a) The service rendered prior to April first, nineteen hundred forty-nine, shall be limited so that the total service in regional state park police service used as a basis for pension credit under this paragraph four and paragraph three of this subdivision e shall not exceed twenty-five years, and

(b) The amount of the additional pension payable pursuant to this paragraph four shall not exceed the amount needed to increase the total amount of the benefits provided under paragraphs one and three of this subdivision e to one-half of the final average salary, plus

5. An additional pension equal to the pension for any creditable service rendered while not employed in regional state park police service as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years in regional state park police service for which he receives credit under this article, and

(b) Not increase the total allowance to more than he would have received had his total service been rendered in regional state park police service.

f. The increased pensions to any member in regional state park police service, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution for each member who elects the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the police and fire retirement system for such extra pensions, and upon approval by the comptroller, the additional contributions shall be certified by the comptroller and shall be included in the annual appropriation to the pension accumulation fund

of the police and fire retirement system in the manner provided in section three hundred sixteen of this article.

g. In computing the twenty-five years of completed service in regional state park police service full credit shall be given and full allowance shall be made for service of such member in war after world war I as defined in section three hundred two of this article, provided such member at the time of his entrance into the armed forces was in the regional state park police service or a member of the division of state police in the executive department and for service in time of war during world war I and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors and marines who were actual residents of this state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president for Mexican border service.

h. Service in the division of the state police in the executive department shall be considered allowable service in regional state park police service, for the purposes of this section, provided that the member pays or has paid the required contributions and provided, further, that in the case of employees entering or re-entering regional state park police service on or after July first, nineteen hundred fifty-four, only credit for service as a member or officer of the state police (including service granted pursuant to subdivision g of this section and credited as state police service) shall be so allowable.

i. The provisions of this section shall be controlling notwithstanding any provision of this article to the contrary.

j. Notwithstanding any provision of subdivision b, c or i of this section to the contrary, a member who is in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law and who has elected or is required to contribute in accordance with this section may, on or before

March thirty-first, nineteen hundred seventy-three, elect to come under the provisions of section three hundred seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

§ 383-a. Retirement of members of the regional state park police; new plan. a. Every member or officer of the regional state park police who enters or re-enters service on or after June twenty-eighth, nineteen hundred sixty-five shall contribute on the basis provided for by this section.

b. Every member or officer in the regional state park police who entered such service prior to June twenty-eighth, nineteen hundred sixty-five, and who elected to contribute under former section eighty-three-a of this chapter shall contribute on the basis provided for by this section, if he so elected on or before December thirty-first, nineteen hundred sixty-five.

c. A member who elected to contribute under former section eighty-three-a or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member rendered after March twenty-eighth, nineteen hundred forty-nine, and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay. No such member shall be required to continue contributions after completing twenty-five years of such service.

d. A member contributing on the basis of this section at the time of

retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in such service or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, on retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any shall equal one-fiftieth of his final average salary for each year of creditable service in such division. This pension shall not exceed the amount needed to make the total amount of the benefits provided under paragraphs one and two-- this subdivision d equal to one-half of final average salary.

3. An additional pension equal to the pension for any creditable service rendered while not employed in regional state park police service as provided under paragraphs two and three of subdivision a of section three hundred seventy-five of this article. This pension shall:

- (a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service as a member of the regional state park police for which he receives credit under this article, and

- (b) Not increase the total allowance to more than he would have received had his total service been rendered as a member of the regional state park police.

For the purpose only of determining the amount of the pension provided herein, the annuity shall be computed as it would be:

- (aa) if not reduced by the actuarial equivalent of any outstanding loan, and

- (bb) if not increased by the actuarial equivalent of any additional contributions, and

- (cc) if not reduced by reason of the member's election to decrease his

annuity contributions to the retirement systems in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

e. The increased pensions to members of the regional state park police, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him to the commissioner of conservation. The amount thereof shall be included in the annual appropriation of the state for the conservation department. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system.

f. In computing the twenty-five years of completed service of a member of the regional state park police, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president or Mexican border service.

g. Service in the division of the state police in the executive department shall be considered allowable service in regional state park police service, for the purposes of this section, provided that the member pays or has paid the required contributions and provided, further, that in the case of employees entering or re-entering regional state park police service on or after July first, nineteen hundred

fifty-four, only credit for service as a member or officer of the state police shall be so allowable.

h. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

i. Notwithstanding any provision of subdivision a, b or h of this section to the contrary, a member who is in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law and who has elected or is required to contribute in accordance with this section may, on or before March thirty-first, nineteen hundred seventy-three, elect to come under the provisions of section three hundred seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

*** § 383-b. Retirement of members of the division of law enforcement in the department of environmental conservation.** a. As used in this section, the term "member of the division of law enforcement of the department of environmental conservation" shall mean service in full time police duty as a sworn police officer of the division of law enforcement in the department of environmental conservation.

b. Notwithstanding any other provision of law providing for transfers between retirement systems, any sworn police officer of the division of law enforcement in the department of environmental conservation who is a member of the New York state employees' retirement system may transfer to the New York state and local police and fire retirement system and shall receive credit pursuant to and be entitled to the retirement benefits afforded in accordance with this section. Upon any such transfer the member shall be entitled to the amount of service which would have been deemed creditable had such member been subject to such system during the course of his or her membership within such system. Contributions to such system shall be made in accordance with appropriate provisions of law relating thereto. Application for such transfer must be made to the state comptroller on or before December thirty-first, nineteen hundred eighty-six. The provisions of section

three hundred forty-three of this article shall apply to any member making application for transfer under this subdivision.

c. Any member of the division of law enforcement in the department of environmental conservation who elects or is required to contribute under this section shall contribute to the police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of total service in the division of law enforcement in the department of environmental conservation, or

2. Attainment of age sixty in the division of law enforcement in the department of environmental conservation, if prior thereto, on an allowance of one-fiftieth of his final average salary for each year of total service in the division of law enforcement in the department of environmental conservation not in excess of twenty-five years. Such election shall be in writing and shall be duly executed and filed with the comptroller.

d. Every employee entering or re-entering the division of law enforcement in the department of environmental conservation on or after January first, nineteen hundred eighty-seven shall contribute on the basis provided for by this section.

e. A member who is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay. No such member shall be

required to continue contributions after completing twenty-five years of such service.

f. A member contributing on the basis of this section, at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in such service or upon the attainment of age sixty by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, on retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, shall equal one-fiftieth of his final average salary for each year of creditable service in such division. This pension shall not exceed the amount needed to make the total amount of the benefits provided under paragraph one and this paragraph equal to one-half of final average salary.

3. An additional pension equal to the pension for any creditable service rendered while not employed in the division of law enforcement in the department of environmental conservation as provided under paragraphs two and three of subdivision a of section three hundred seventy-five of this article. This pension shall:

- (i) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service as a member of the division of law enforcement in the department of environmental conservation for which he receives credit under this article, and

- (ii) Not increase the total allowance to more than he would have received had his total service been rendered as a member of the division of law enforcement in the department of environmental conservation.

For the purpose only of determining the amount of the pension provided

herein, the annuity shall be computed as it would be:

(A) if not reduced by the actuarial equivalent of any outstanding loan, and

(B) if not increased by the actuarial equivalent of any additional contributions, and

(C) if not reduced by reason of the member's election to decrease his annuity contributions to the retirement systems in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

g. The increased pensions to members of the division of law enforcement in the department of environmental conservation, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him to the commissioner of environmental conservation. The amount thereof shall be included in the annual appropriation of the state for the department of environmental conservation. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system.

h. In computing the twenty-five years of completed service of a member of the division of law enforcement in the department of environmental conservation, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president or

Mexican border service.

i. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

j. Notwithstanding any provision of subdivision d, e or i of this section to the contrary, a member who is in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law and who has elected or is required to contribute in accordance with this section may, on or before March thirty-first, nineteen hundred eighty-seven, elect to come under the provisions of section three hundred seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

* NB There are 2 § 383-b's

*** § 383-b. Retirement of members of the capital police force in the office of general services.** a. As used in this section, the term "members of the capital police force in the office of general services" shall mean service in full time police duty as a sworn police officer of the capital police force in the office of general services.

b. Notwithstanding any other provision of law providing for transfers between retirement systems, any sworn police officer of the capital police force in the office of general services who is a member of the New York state and local employees' retirement system may transfer to the New York state and local police and fire retirement system and shall receive credit pursuant to and be entitled to the retirement benefits afforded in accordance with this section. Upon any such transfer the member shall be entitled to the amount of service which would have been deemed creditable had such member been subject to such system during the course of his or her membership within such system. Contributions to such system shall be made in accordance with appropriate provisions of law relating thereto. Application for such transfer must be made to the state comptroller on or before December thirty-first, nineteen hundred eighty-six. The provisions of section three hundred forty-three of this article shall apply to any member making application for transfer under

this subdivision.

c. Any member of the capital police force in the office of general services who elects or is required to contribute under this section shall contribute to the police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of total service in the capital police force in the office of general services, or

2. Attainment of age sixty in the capital police force in the office of general services, if prior thereto, on an allowance of one-fiftieth of his final average salary for each year of total service in the capital police force in the office of general services not in excess of twenty-five years. Such election shall be in writing and shall be duly executed and filed with the comptroller.

d. Every employee entering or re-entering the capital police force in the office of general services on or after January first, nineteen hundred eighty-seven shall contribute on the basis provided for by this section.

e. A member who is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay. No such member shall be required to continue contributions after completing twenty-five years of such service.

f. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in such service or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, on retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any shall equal one-fiftieth of his final average salary for each year of creditable service in such division. This pension shall not exceed the amount needed to make the total amount of the benefits provided under paragraphs one and two of this subdivision equal to one-half of final average salary.

3. An additional pension equal to the pension for any creditable service rendered while not employed in the capital police force in the office of general services as provided under paragraphs two and three of subdivision a of section three hundred seventy-five of this article. This pension shall:

- (i) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service as a member of the capital police force in the office of general services for which he receives credit under this article; and

- (ii) Not increase the total allowance to more than he would have received had his total service been rendered as a member of the capital police force in the office of general services.

For the purpose only of determining the amount of the pension provided herein, the annuity shall be computed as it would be:

- (A) if not reduced by the actuarial equivalent of any outstanding loan, and

(B) if not increased by the actuarial equivalent of any additional contributions, and

(C) if not reduced by reason of the member's election to decrease his annuity contributions to the retirement systems in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

g. The increased pensions to members of the capital police force in the office of general services, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him to the commissioner of the office of general services. The amount thereof shall be included in the annual appropriation of the office of general services. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system.

h. In computing the twenty-five years of completed service of a member of the capital police force in the office of general services, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president or Mexican border service.

i. The provisions of this section shall be controlling notwithstanding any provision of this article to the contrary.

j. Notwithstanding any provision of subdivision d, e or i of this section to the contrary, a member who is in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law and who has elected or is required to contribute in accordance with this section may, on or before March thirty-first, nineteen hundred eighty-seven, elect to come under the provisions of section three hundred seventy-five-f of this article. Such election shall be duly executed and filed with the comptroller.

* NB There are 2 § 383-b's

§ 383-c. Optional retirement of members holding the position of forest ranger in the service of the department of environmental conservation.

a. As used in this section, the term "forest ranger in the service of the department of environmental conservation" shall mean a person who serves on a full-time basis in the title of forest ranger I, forest ranger II, forest ranger III, assistant superintendent of forest fire control, superintendent of forest fire control or any successor titles or new titles in the forest ranger title series in the department of environmental conservation.

b. Notwithstanding any other provision of law providing for transfers between retirement systems, any forest ranger in the service of the department of environmental conservation who is a member of the New York state and local employees' retirement system may transfer to the New York state and local police and fire retirement system and shall receive credit pursuant to and be entitled to the retirement benefits afforded in accordance with this section. Upon any such transfer the member shall be entitled to the amount of service which would have been deemed creditable had such member been subject to such system during the course of his or her membership within such system. Contributions to such system shall be made in accordance with appropriate provisions of law relating thereto. Application for such transfer must be made to the state comptroller on or before December thirty-first, nineteen hundred ninety-seven. The provisions of section three hundred forty-three of this article shall apply to any member making application for transfer under this subdivision.

c. Any forest ranger in the service of the department of environmental conservation who elects or is required to contribute under this section shall contribute to the New York state and local police and fire retirement system on the basis of retirement upon his:

1. Completion of twenty-five years of total creditable service, or

2. Attainment of age sixty, if prior thereto, on an allowance of one-fiftieth of his final average salary for each year of total creditable service not in excess of twenty-five years. Such election shall be in writing and shall be duly executed and filed with the comptroller.

d. Every employee entering or re-entering service as a forest ranger in the service of the department of environmental conservation on or after the effective date of this section shall contribute on the basis provided for by this section.

e. A member who is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay. No such member shall be required to continue contributions after completing twenty-five years of such service.

f. A member contributing on the basis of this section, at the time of retirement, shall be entitled to retire after the completion of

twenty-five years of total creditable service or upon the attainment of age sixty by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, on retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, shall equal one-fiftieth of this final average salary for each year of creditable service in such division. This pension shall not exceed the amount needed to make the total amount of the benefits provided under this paragraph and paragraph one of this subdivision equal to one-half of final average salary.

3. For each year of total creditable service in excess of twenty-five years, an additional pension which shall be equal to one-sixtieth of his final average salary; provided, however, that the total allowance payable pursuant to this section shall not exceed three-quarters of such member's final average salary.

4. An additional pension equal to the pension for any creditable service rendered while not employed as a forest ranger in the service of the department of environmental conservation as provided under paragraphs two and three of subdivision a of section three hundred seventy-five of this article. This pension shall:

- (i) be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service as a forest ranger in the service of the department of environmental conservation for which he receives credit under this article, and

- (ii) not increase the total allowance to more than he would have received had his total service been rendered as a forest ranger in the service of the department of environmental conservation.

For the purpose only of determining the amount of the pension provided herein, the annuity shall be computed as it would be:

(A) if not reduced by the actuarial equivalent of any outstanding loan, and

(B) if not increased by the actuarial equivalent of any additional contributions, and

(C) if not reduced by reason of the member's election to decrease his annuity contributions to the retirement systems in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

g. The increased pensions to a forest ranger in the service of the department of environmental conservation, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him to the commissioner of environmental conservation. The amount thereof shall be included in the annual appropriation of the state for the department of environmental conservation. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system.

h. In computing the twenty-five years of total creditable service of a forest ranger in the service of the department of environmental conservation, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president or Mexican border service.

i. The provision of this section shall be controlling notwithstanding any provision in this article to the contrary.

j. Notwithstanding any provision of subdivision d, e, or i of this section to the contrary, a member who is in the collective negotiating units designated as the security services unit or security supervisors unit or designated management confidential employees and established pursuant to article fourteen of the civil service law and who has elected or is required to contribute in accordance with this section may, on or before March thirty-first, nineteen hundred ninety-eight, elect to come under the provisions of section three hundred seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

k. Commencing with the effective date of this section and in a manner determined by the head of the retirement system, the employer shall make contributions to the retirement system to fund the past service liability cost associated with the implementation of this section as those costs are calculated by the retirement system actuary. Such contributions may be made, at the election of the employer, in level dollar installments over a ten year period.

§ 383-d. Alternative retirement benefits for university police officers appointed by the state university. a. As used in this section, the term "university police officer" shall mean a person who is so appointed pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law.

b. Notwithstanding any other provision of law providing for transfers between retirement systems, any university police officer in the service of the state university who is a member of the New York state employees' retirement system may transfer to the New York state and local police and fire retirement system and shall receive credit pursuant to and be entitled to the retirement benefits afforded in accordance with this section. Upon any such transfer the member shall be entitled to the

amount of service which would have been deemed creditable had such member been subject to such system during the course of his or her membership within such system. Contributions to such system shall be made in accordance with appropriate provisions of law relating thereto. Application for such transfer must be made to the state comptroller on or before December thirty-first, two thousand fifteen. The provisions of section three hundred forty-three of this article shall apply to any member making application for transfer under this subdivision.

c. Any university police officer in the service of the state university who elects or is required to contribute under this section shall contribute to the New York state and local police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of total creditable service; or

2. Attainment of age sixty as a university police officer in the service of the state university, if prior thereto, on an allowance of one-fiftieth of his or her final average salary for each year of total creditable service not in excess of twenty-five years. Such election shall be in writing and shall be duly executed and filed with the comptroller.

d. Every employee entering or re-entering service as a university police officer in the service of the state university on or after the effective date of this section shall contribute on the basis provided for by this section.

e. A member who is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his or her compensation similarly determined. Such latter proportion shall be computed to provide at the time when he or she shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his or her final average salary for each year of service as a member prior to the attainment of the age when he or she shall first become eligible for retirement. Such member's rate of

contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his or her employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay. No such member shall be required to continue contributions after completing twenty-five years of such service.

f. A member contributing on the basis of this section, at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service or upon the attainment of age sixty by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He or she shall receive, on retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement, plus

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may then be entitled, if any, shall equal one-fiftieth of his or her final average salary for each year of creditable service in such service. This pension shall not exceed the amount needed to make the total amount of the benefits provided under this paragraph and paragraph one of this subdivision equal to one-half of final average salary.

3. An additional pension equal to the pension for any creditable service rendered while not employed as a university police officer in the service of the state university as provided under paragraphs two and three of subdivision a of section three hundred seventy-five of this article. This pension shall:

- (i) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service as a university police officer in the service of the state university for which he or she receives credit under this article, and

- (ii) Not increase the total allowance to more than he or she would have received had his or her total service been rendered as a university

police officer in the service of the state university. For the purpose only of determining the amount of the pension provided herein, the annuity shall be computed as it would be:

(A) if not reduced by the actuarial equivalent of any outstanding loan, and

(B) if not increased by the actuarial equivalent of any additional contributions, and

(C) if not reduced by reason of the member's election to decrease his or her annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his or her contributions for old-age and survivors insurance coverage.

g. The increased pensions to a university police officer in the service of the state university, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him or her to the chancellor of the state university. The amount thereof shall be included in the annual appropriation of the state for the state university. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system.

h. In computing the twenty-five years of completed service of a university police officer in the service of the state university, full credit shall be given and full allowance shall be made for service of such member in war after World War I as defined in section two of this chapter, provided such member at the time of his or her entrance into the armed forces was in state service, and full credit and full allowance shall be made for service as a university peace officer prior to the effective date of chapter four hundred twenty-four of the laws of nineteen hundred ninety-eight.

i. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

j. Notwithstanding any provision of subdivision d, e or i of this section to the contrary, a member who is in the collective negotiating unit designated as the agency police services unit and established pursuant to article fourteen of the civil service law and who has elected or is required to contribute in accordance with this section may, on or before March thirty-first, two thousand sixteen, elect to come under the provisions of section three hundred seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

k. Commencing with the effective date of this section and in a manner determined by the head of the retirement system, the state, as employer, shall make contributions to the retirement system to fund the past service liability costs associated with the implementation of this section as those costs are calculated by the retirement system actuary. Such contributions may, at the election of the employer, be amortized over a ten year period.

§ 383-e. Retirement of officers of state law enforcement; twenty year retirement plan. a. Membership. Every non-seasonally appointed sworn member or officer of the division of law enforcement in the department of environmental conservation, a forest ranger in the service of the department of environmental conservation, which shall mean a person who serves on a full-time basis in the title of forest ranger I, forest ranger II, forest ranger III, assistant superintendent of forest fire control, superintendent of forest fire control or any successor titles or new titles in the forest ranger title series in the department of environmental conservation, a police officer in the department of environmental conservation, the regional state park police, and university police officers whose date of membership is on or after July first, two thousand twenty-five shall be covered by the provisions of this section. Every member described in this subdivision in such service whose date of membership is on or after January ninth, two thousand ten,

but before July first, two thousand twenty-five may irrevocably elect to be covered by the provisions of this section by filing an election therefor with the comptroller. The deadline to make such election for every member described in this subdivision in such service shall be December thirty-first, two thousand twenty-six or within one year of employment in an eligible title, whichever is later. To be effective, such election must be duly executed and acknowledged on a form prepared by the comptroller for that purpose.

b. Retirement allowance. A member, covered by the provisions of this section at the time of retirement, shall be entitled to retire upon completion of twenty years of total creditable service in such titles, and shall retire upon the attainment of the mandatory retirement age prescribed by this section, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article.

1. Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity for such years of service as provided in paragraph four of this subdivision, shall be sufficient to provide such member with a retirement allowance of one-half of such member's final average salary.

2. Upon completion of more than twenty years of such service and upon retirement, each such member shall receive, for each year of service in excess of twenty, an additional pension which, together with an annuity for each such year as provided in paragraph four of this subdivision, shall be equal to one-hundredth of such member's final average salary, provided, however, that the pension payable pursuant to this section shall not exceed sixty-five per centum of final average salary.

3. Upon attainment of the mandatory retirement age without completion of twenty years of such service, each such member shall receive a pension which, together with an annuity for such years of service as provided in paragraph four of this subdivision, shall be equal to one-fortieth of such member's final average salary for each year of creditable service in such titles. Every such member shall also be

entitled to an additional pension equal to the pension for any creditable service rendered while not an employee in such titles as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of such member's final average salary.

4. The annuity provided under paragraphs one, two and three of this subdivision shall be the actuarial equivalent, at the time of retirement, of the member's accumulated contributions based upon the rate of contribution fixed under section three hundred eighty-three of this title and upon the salaries earned while in such service. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease such member's contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivor's insurance. Any accumulated contributions in excess of the amount required to provide the annuity computed pursuant to this paragraph shall be used to increase the member's retirement allowance.

c. Credit for previous service. In computing the years of total creditable service for each member described herein, full credit shall be given and full allowance shall be made for service rendered as a member of a retirement plan established pursuant to section three hundred eighty-one-b of this title, a police officer or state university peace officer or member of a police force or department of a state park authority or commission or an organized police force or department of a county, city, town, village, police district, authority or other participating employer or member of the capital police force in the office of general services while a member of the New York state and local police and fire retirement system, of the New York state and local employees' retirement system or of the New York city police pension fund and for all service for which full credit has been given and full allowance made pursuant to the provisions of section three hundred seventy-five-h of this article provided, however, that full credit pursuant to the provisions of such section shall mean only such service

as would be creditable service pursuant to the provisions of section three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-three-b, as added by chapter six hundred seventy-four of the laws of nineteen hundred eighty-six, three hundred eighty-three-b, as added by chapter six hundred seventy-seven of the laws of nineteen hundred eighty-six, three hundred eighty-three-c or three hundred eighty-three-d of this title or pursuant to the provisions of title thirteen of the administrative code of the city of New York for any member contributing pursuant to this section who transferred to the jurisdiction of the department of environmental conservation including but not limited to environmental conservation officers and forest rangers, regional state park police or state university of New York peace officers.

d. Retirement for cause. Upon receipt of a certificate from the head of the entity where such member is employed or such member's designee, a member as described in subdivision a of this section, who has accrued twenty-five or more years of service credit under this section shall be retired on the first day of the second month next succeeding the date such certificate was filed with the comptroller.

e. Credit for military service. In computing the years of total creditable service full credit shall be given and full allowance shall be made for service of such member in war after world war I as defined in section three hundred two of this article, provided such member at the time of such member's entrance into the armed forces was in police service as defined in subdivision eleven of section three hundred two of this article.

f. Transfer of membership to employees' retirement system. Any member currently enrolled pursuant to this section and who previously transferred service credit from the New York state and local employees' retirement system to the New York state and local police and fire retirement system, may elect to transfer such previously transferred service credit back to the New York state and local employees' retirement system, and such member shall have the option to retroactively transfer such member's membership into such employees' retirement system.

g. Employee contributions. 1. Notwithstanding any provisions of this chapter to the contrary, any member currently enrolled pursuant to this section shall be required to make employee contributions equal to the amounts identified in this section. No other employee contributions shall be required. Upon the date of enrollment in the plan provided by this section, the rate at which each such member shall make basic member contributions in any plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

(a) members with wages of forty-five thousand dollars per annum or less shall contribute four and one-half per centum of annual wages;

(b) members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute five per centum of annual wages;

(c) members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall contribute six per centum of annual wages;

(d) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute seven and one-quarter per centum of annual wages; and

(e) members with wages greater than one hundred thousand dollars per annum shall contribute seven and one-half per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local police and fire retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which members enrolled in the plan provided by this section shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-eight, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current

plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

2. (a) Effective July first, two thousand twenty-five, any member currently enrolled pursuant to this section, who first became a member of the New York state and local police and fire retirement system prior to July first, two thousand twenty-five, shall be required to make employee contributions pursuant to section twelve hundred four of this chapter. No other employee contributions shall be required.

* (b) Effective October first, two thousand twenty-six, any member currently enrolled pursuant to this section, who first became a member of the New York state and local police and fire retirement system on or after July first, two thousand twenty-five, shall be required to make employee contributions pursuant to section twelve hundred four of this chapter. No other employee contributions shall be required.

* NB Effective October 1, 2026

h. The provisions of this section shall be controlling, notwithstanding any provision of law to the contrary.

§ 383-f. Retirement of officers of state law enforcement; alternative twenty-five year retirement plan. a. Membership. Every non-seasonally appointed sworn member or officer of the division of law enforcement in the department of environmental conservation, a forest ranger in the service of the department of environmental conservation, which shall mean a person who serves on a full-time basis in the title of forest ranger I, forest ranger II, forest ranger III, assistant superintendent of forest fire control, or any successor titles or new titles in the forest ranger title series in the department of environmental conservation, a police officer in the department of environmental conservation, the regional state park police, and university police officers whose date of membership is prior to January ninth, two thousand ten may irrevocably elect to be covered by the provisions of this section by filing an election therefor with the comptroller. The deadline to make such election for every member described in this

subdivision in such service shall be December thirty-first, two thousand twenty-six or within one year of employment in an eligible title, whichever is later. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity, if any, which shall be the actuarial equivalent of such member's accumulated contributions at the time of their retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which such member may then be entitled, if any, shall be sufficient to provide such member with a retirement allowance equal to fifty-five percent of their final average salary. To be effective, such election must be duly executed and acknowledged on a form prepared by the comptroller for such purpose.

b. Retirement allowance. 1. A member, covered by the provisions of this section at the time of retirement, shall be entitled to retire upon completion of twenty-five years of total creditable service in such titles by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article.

2. Upon completion of more than twenty-five years of such service and upon retirement, each such member shall receive, for each year of service in excess of twenty-five, an additional pension which, together with an annuity for each such year as provided in paragraph three of this subdivision, shall be equal to one-hundredth of their final average salary, provided, however, that the pension payable pursuant to this section shall not exceed sixty-five per centum of such member's final average salary.

3. The annuity provided under paragraph two of this subdivision shall be the actuarial equivalent, at the time of retirement, of the member's accumulated contributions based upon the rate of contributions fixed under section three hundred eighty-three of this title and upon the salaries earned while in such service. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease such member's contributions for old age and survivor's insurance. Any

accumulated contributions in excess of the amount required to provide the annuity computed pursuant to this paragraph shall be used to increase the member's retirement allowance.

c. Credit for previous service. In computing the years of total creditable service for each member described herein, full credit shall be given and full allowance shall be made for service rendered as a member of a retirement plan established pursuant to section three hundred eighty-one-b of this title, a police officer or state university peace officer or member of a police force or department of a state park authority or commission or an organized police force or department of a county, city, town, village, police district, authority or other participating employer or member of the capital police force in the office of general services while a member of the New York state and local police and fire retirement system, of the New York state and local employees' retirement system or of the New York city police pension fund and for all service for which full credit has been given and full allowance made pursuant to the provisions of section three hundred seventy-five-h of this article provided, however, that full credit pursuant to the provisions of such section shall mean only such service as would be creditable service pursuant to the provisions of section three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-three-b, as added by chapter six hundred seventy-four of the laws of nineteen hundred eighty-six, three hundred eighty-three-b, as added by chapter six hundred seventy-seven of the laws of nineteen hundred eighty-six, three hundred eighty-three-c or three hundred eighty-three-d of this title or pursuant to the provisions of title thirteen of the administrative code of the city of New York for any member contributing pursuant to this section who transferred to the jurisdiction of the department of environmental conservation including but not limited to environmental conservation officers and forest rangers, regional state park police or state university of New York peace officers.

d. Employee contributions. Notwithstanding any provisions of this chapter to the contrary, any member currently enrolled pursuant to this section shall be required to make employee contributions equal to one and one-half per centum of annual wages, provided, however, that

beginning on and after July first, two thousand twenty-five, any member currently enrolled pursuant to this section shall have no such employee contributions.

e. The provisions of this section shall be controlling, notwithstanding any provision of law to the contrary.

§ 384. Optional retirement of certain police officers and firefighters. a. Any member of the police and fire retirement system who is an officer or member of any organized fire department or organized police force or police department of any county, city, town, village, fire district, police district or participating employer may elect to contribute to the police and fire retirement system on the basis of retirement upon his or her completion of twenty-five years of service as an officer or member of any such force or department on an allowance of:

1. One-fiftieth of his final average salary for each year of total service as such officer or member, and

2. One-seventieth of his final average salary for each year of total service for which he otherwise shall be entitled to credit, but not exceeding in the aggregate one-half of his final average salary.

b. Any officer or member of such an organized fire department or organized police force or department may elect to contribute to the police and fire retirement system pursuant to this section within one year after he or she becomes such an officer or member, or on or before January first, nineteen hundred seventy, or within one year after his or her employer assumed, or assumes in whole or in part, the additional cost to the police and fire retirement system resulting from an election pursuant to this section.

bb. On and after April first, nineteen hundred sixty-seven only firefighters, police officers or officers of such a fire department or police force may elect to contribute to the police and fire retirement

system on the basis of retirement pursuant to this section and, as to members so electing, in addition to service in war after world war I, as defined in section three hundred two of this article, only credit for service:

1. As such a firefighter, police officer or officer, or

2. As a member or officer of the state police, or

3. In the regional state park police service, shall be included in computing years of police or fire service for retirement pursuant to this section.

c. Elections made pursuant to this section shall be in writing and shall be duly acknowledged and filed with the comptroller. Any member who files such an election pursuant to this section may withdraw it after it has been filed for at least one year. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. After such withdrawal such member shall contribute to the police and fire retirement system as otherwise provided in this article. Any member who has contributed the entire additional cost to the police and fire retirement system resulting from an election pursuant to this section, may withdraw such entire additional amount in the event that he or she so withdraws such election.

d. Contributions for additional costs of elections to contribute pursuant to this section shall be payable as follows:

1. Except as otherwise provided in this subdivision, a member electing to contribute to the police and fire retirement system pursuant to this section shall pay the entire additional cost to the police and fire retirement system resulting from such election by means of a rate of contribution. Such rate shall be computed to provide, upon his or her completion of twenty-five years of service as an officer or member of any such department or force, the portion of the retirement allowance for which he or she is required to provide pursuant to this section. Such rate of contribution shall be determined in a manner similar to

that provided in section three hundred twenty-three of this article and subject to the provisions of paragraph four of this subdivision, the contributions based thereon shall be paid while such member is an officer or member of any such department or force.

2. The member's employer, however, by appropriate action, may (a) in its initial action under this section, elect to assume all of the additional cost on account of service as an officer or member of any such department or force rendered prior to the effective date of such election and (b) in any subsequent action, as hereafter provided in this paragraph, elect to assume all of the additional cost on account of service as an officer or member of any such other prior department or force rendered prior to the effective date of such subsequent election and, in addition may in its initial action under this section, elect to assume any multiple of twenty-five per centum of such additional cost on account of such service for such current employer rendered on and after the effective date of such initial election. Any subsequent election changing the percentage of additional cost assumed by an employer shall apply only to service rendered for such employer on and after the effective date of such subsequent election. The employer shall pay the additional cost so assumed by any such election by means of annual contributions which shall be determined by the actuary and paid by the employer in the same manner as the contributions required under section three hundred twenty-three of this article. An employer, which in its initial action elected to assume all of the additional cost on account of service only as an officer or member of its police or fire department rendered prior to the effective date of such election may, on or before April first, nineteen hundred sixty-nine, elect to assume all of the additional cost, including the cost of the necessary actuarial re-evaluation on account of service rendered prior to the effective date of the initial action hereunder, as an officer or member of any such organized fire department or organized police force or department of any county, city, town, village, fire district, police district, or participating employer other than such employer. Such rate shall be computed to provide the appropriate pension benefits under paragraph two of subdivision e of this section.

3. Where the employer elected or elects to assume fifty per centum of the additional cost on account of service rendered on and after the effective date of any such election, the member shall thereafter contribute at a rate computed by the actuary to provide, upon retirement after twenty-five years of service as an officer or member of any such department or force or upon the attainment of age sixty with less than twenty-five years of such service, an annuity of one-one hundredth of final average salary for each year of such service rendered on and after the effective date of such election. If the employer assumed or assumes a percentage other than fifty per centum of the additional cost on account of service rendered on and after the effective date of any such election, the member's rate of contribution shall be modified so that it is computed to provide the portion of the retirement allowance for which he is required to provide.

Such member's rate of contribution pursuant to this subdivision d shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

4. No such member shall be required to continue contributions after completing twenty-five years of such service.

5. For actuarial purposes relative to rates or amounts of contributions to the funds of the police and fire retirement system, service of a member making an election pursuant to this section shall, as to his or her service and status subsequent thereto, be deemed continuous and constant. If the continuity of such service be interrupted or such status be changed, however, appropriate changes as may be necessary for actuarial purposes shall be made in such rates and

amounts.

e. Computation of retirement allowances pursuant to this section.

1. Computation of retirement allowance where member has elected to pay the entire additional cost:

A member who has elected to contribute pursuant to this section and who has made the contributions required by this section shall be entitled to retire on or after his completion of twenty-five years of service as an officer or member of any such fire department, police force or police department, or upon the attainment of age sixty with less than twenty-five years of such service, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, upon retirement, a retirement allowance which shall not exceed one-half of his final average salary. Such retirement allowance shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, and

(c) A pension of one-one hundredth of his final average salary for each year of service as an officer or member of any such fire department, police force or police department, and

(d) An additional pension of one-one hundred fortieth of his final average salary for each year of member service for which he otherwise shall be entitled to credit and which was earned by him since he last become a member, and

(e) If he has had one or more years of service as a member, an additional pension which shall be equal to one-fiftieth of his final average salary for each year of prior service as an officer or member of any such fire department, police force or police department, plus one-seventieth of his final average salary for each year of prior service to which he otherwise shall be entitled to credit.

(f) Upon completion of twenty-five years service, an additional pension, if required, of such amount as shall be necessary to increase

the total amount of the benefits provided herein to one-half of his final average salary. The pension provided by this sub-paragraph shall be payable only if a member retires from service on or before the last day of the calendar month next succeeding the calendar month in which he attains age sixty-two. Provided, however, that in the case of any member who attained the age of sixty-two on or before July first, nineteen hundred sixty-six, to be eligible for additional pension credit under this sub-paragraph, his service shall be terminated and he shall retire on or before December thirty-first, nineteen hundred sixty-seven. For the purpose only of determining the amount of the pension provided in this paragraph, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

2. Computation of retirement allowance where employer has elected to pay all or part of the additional cost:

A member who has elected to contribute pursuant to this section and who has made the contributions required by this section, and whose employer has by appropriate action elected to pay all or part of the additional cost of the benefits provided by this section, shall be entitled to retire on or after his completion of twenty-five years of service as an officer or member of any such fire department, police force or police department, or upon the attainment of age sixty with less than twenty-five years of such service, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, upon retirement, a retirement allowance which shall not exceed one-half of his final average salary. Such retirement allowance shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) A pension which the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if

any, and

(c) A pension for each year of service as an officer or member of any such fire department, police force or police department, rendered on and after the effective date of the employer's election under this section, computed pursuant to the one of the following four formulae which is appropriate:

(1) If his employer elected to pay twenty-five per centum of the additional cost on account of such service rendered on and after the effective date of such election, such pension shall be six-seven hundredths ($6/700$) of his final average salary for each year of such service after such date, or

(2) If his employer elected to pay fifty per centum of the additional cost on account of such service rendered on and after the effective date of such election, such pension shall be one-one hundredth ($1/100$) of his final average salary for each year of such service after such date, or

(3) If his employer elected to pay seventy-five per centum of the additional cost on account of such service rendered on and after the effective date of such election, such pension shall be eight-seven hundredths ($8/700$) of his final average salary for each year of such service after such date, or

(4) If his employer elected to pay one hundred per centum of the additional cost on account of such service rendered on and after the effective date of such election, such pension shall be nine-seven hundredths ($9/700$) of his final average salary for each year of such service after such date, and

(d) An additional pension for such service, exclusive of prior service, rendered before the effective date of the employer's initial election under this section, of one-fiftieth of his final average salary for each year of such service, minus a sum equal to the annuity provided out of the normal contributions, with accumulated interest thereon, made by the member during such period and minus a sum which is the actuarial equivalent of the reduction in his contributions pursuant to the provisions of section three hundred seventy-a of this article, if any, during such period, with regular interest thereon, and

(e) An additional pension of one-one hundred fortieth of his final average salary for each year of member service for which he otherwise shall be entitled to credit and which was earned by him since he last

became a member, and

(f) If he has had one or more years of service as a member, an additional pension which shall be equal to one-fiftieth of his final average salary for each year of such service, which is credited as prior service, plus one-seventieth of his final average salary for each year of prior service for which he otherwise shall be entitled to credit.

(g) Upon completion of twenty-five years service, an additional pension, if required, of such amount as shall be necessary to increase the total amount of the benefits provided herein to one-half of his final average salary. The pension provided by this sub-paragraph shall be payable only if a member retires from service on or before the last day of the calendar month next succeeding the calendar month in which he attains age sixty-two. Provided, however, that in the case of any member who attained the age of sixty-two before or within one month after his employer first elected to assume all or part of the additional cost of service as provided by paragraph two of subdivision d of this section, to be eligible for additional pension credit under this sub-paragraph, his service shall be terminated and he shall retire within three months after his employer so elects or on or before December thirty-first, nineteen hundred sixty-eight, whichever shall last occur.

For the purpose only of determining the amount of the pension provided in this paragraph, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of said reduction in payment of his contributions for old-age and survivors insurance coverage.

f. In the event a member shall continue in service after twenty-five years of total creditable service, as defined in subdivision bb of this section, there shall be added to his pension upon retirement a sum equal to one-sixtieth of his final average salary for each completed additional year of service after twenty-five years.

g. The increased pension provided for in subdivision f hereof shall be conditioned upon the participating employer electing in a manner similar to that provided in subdivision a of section three hundred thirty of this article to provide this added benefit and assuming the additional cost thereof on account of all of the officers and members of its organized fire department or organized police force or department who are contributing under the provisions of this section. Such increased pensions to the members in either department shall be paid from additional contributions made by the appropriate participating employer on account of such members. The actuary of the retirement system shall compute the additional contributions for each employer who elects to provide the special benefits provided under subdivision f of this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such members which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the participating employer for its police and fire departments. Such amount shall be paid on the warrant of the fiscal officer of the participating employer to the pension accumulation fund of the retirement system.

h. Any officer or member of such organized fire department or organized police force or department, may, within one year after he becomes such officer or member or within one year after his employer assumes the additional cost therefor, whichever shall last occur, elect to receive the additional benefits provided for by subdivision f hereof. Any officer or member who elects to receive such benefits shall be separated from service on the first day of the calendar month next succeeding his attainment of age sixty-two and the completion of twenty-five years of service, provided, however, that in the case of any officer or member who attained the age of sixty-two before his employer assumed the additional cost therefor, or who attains the age of sixty-two within one month after his employer assumes the additional cost therefor, to be eligible for additional pension credit under subdivision f of this section, his service shall be terminated and he shall be retired within three months after his employer assumes the

additional cost therefor or on or before December thirty-first, nineteen hundred sixty-eight, whichever shall last occur, and provided further that a member who is a chief or commanding officer of a police department or police force shall retire on the first day of the calendar month next succeeding his attainment of age sixty-five; a member who is a chief or commanding officer of a police department or police force, who attained age sixty-five before his employer elected to provide this added benefit and has rendered twenty-five years of total creditable service, shall retire on or before December thirty-first, nineteen hundred sixty-eight, or within one year after his employer assumes the additional cost therefor, whichever shall last occur.

i. In lieu of the provisions of subdivisions f, g and h and in the event a member shall continue in service after twenty-five years of total creditable service, as defined in subdivision bb of this section, there shall be added to his pension upon retirement a sum equal to one-one hundred twentieth of his final average salary for each completed additional year of service after twenty-five years.

j. The increased pension provided for in subdivision i hereof shall be conditioned upon the participating employer electing in a manner similar to that provided in subdivision a of section three hundred thirty of this article to provide this added benefit and assuming the additional cost thereof on account of all of the officers and members of its organized fire department or organized police force or department who are contributing under the provisions of this section. Such increased pensions to the members in either department shall be paid from additional contributions made by the appropriate participating employer on account of such members. The actuary of the retirement system shall compute the additional contributions for each employer who elects to provide the special benefits provided under subdivision i of this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such members which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the

participating employer for its police and fire departments. Such amount shall be paid on the warrant of the fiscal officer of the participating employer to the pension accumulation fund of the retirement system.

k. Any officer or member of such organized fire department or organized police force or department, may, within one year after he becomes such officer or member or within one year after his employer assumes the additional cost therefor, whichever shall last occur, elect to receive the additional benefits provided for by subdivision i hereof. Any officer or member who elects to receive such benefits shall be separated from service on the first day of the calendar month next succeeding his attainment of age sixty-two and the completion of twenty-five years of service, provided, however, that in the case of any officer or member who attained the age of sixty-two before his employer assumed the additional cost therefor, or who attains the age of sixty-two within one month after his employer assumes the additional cost therefor, to be eligible for additional pension credit under subdivision i of this section, his service shall be terminated and he shall be retired within three months after his employer assumes the additional cost therefor, or on or before December thirty-first, nineteen hundred sixty-eight, whichever shall last occur, and provided further that a member who is a chief or commanding officer of a police department or police force shall retire on the first day of the calendar month next succeeding his attainment of age sixty-five; a member who is a chief or commanding officer of a police department or police force, who attained age sixty-five before his employer elected to provide this added benefit and has rendered twenty-five years of total creditable service, shall retire on or before December thirty-first, nineteen hundred sixty-eight, or within one year after his employer assumes the additional cost therefor, whichever shall last occur.

l. Upon retirement of any member pursuant to this section, any additional amounts credited to the member's annuity savings account pursuant to subdivision b of section three hundred thirty of this article shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity prescribed by this section. Any other amounts credited to the member's annuity savings

account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision e of this section, may at the option of the member at the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

m. Service in the division of state police in the executive department shall be considered allowable service in an organized fire department or an organized police force or police department for the purpose of this section, provided that the member pays or has paid the required contributions.

n. Notwithstanding any provision of subdivision bb or g of this section, service as a fire chief-airport, firefighter-airport, and fire captain-airport of the county of Monroe shall be included for the purpose of computing police or fire service for retirement pursuant to this section, provided the county of Monroe has elected to participate in the New York state and local police and fire retirement system on the behalf of its fire chief-airport, firefighters-airport, and fire captains-airport and elects to provide the benefit of this section.

* o. The benefits hereinabove provided shall be payable to a member, unless at the date of retirement, such member would otherwise be entitled to a greater benefit under other provisions of this article had he withdrawn from this section, in which event such greater benefits shall be payable.

* NB There are 2 sb o's

* o. Any member of the New York state and local police and fire retirement system who was a member of the New York city employees' retirement system while employed as a New York city police department trainee or a New York city transit officer trainee and whose membership therein was terminated by his attaining membership in the New York state and local police and fire retirement system, may purchase credit in the New York state and local police and fire retirement system for prior creditable service in the New York city employees' retirement system earned while employed as a police department trainee or transit officer trainee and shall have the period of such prior service credit counted

as police service for the purpose of determining the amount of his pension and retirement allowance and period of service needed for retirement. In order to purchase credit pursuant to this subdivision, the member shall pay into the pension accumulation fund the contribution amount as determined by the comptroller, either in a lump sum or in installments, necessary to pay in full the cost of such previous service. If such payment be made in installments, the same shall be paid within a period no greater than the number of months of such member service granted.

* NB There are 2 sb o's

p. Notwithstanding any provision of this section, service as an aircraft rescue firefighter employed by the Niagara frontier transportation authority shall be included for the purpose of computing police or fire service for retirement pursuant to this section, provided such authority has elected to participate in the New York state and local police and fire retirement system on the behalf of its aircraft rescue firefighters and elects to provide the benefit of this section.

q. The provisions of this section shall be controlling notwithstanding any provision of this article to the contrary.

§ 384-a. Additional pension benefits for certain police officers after twenty-five years of service. a. In the event a member of the police force of the village of Hempstead, in the county of Nassau, who is contributing to the retirement system under section three hundred eighty-four of this chapter, shall continue in service after twenty-five years of total creditable police service under such section in such force, he or she shall receive, upon retirement, in addition to the amount of any retirement allowance he or she would otherwise be entitled to receive, pursuant to the applicable provisions of this chapter, an additional pension for such service of one-sixtieth of his or her final average salary for each completed additional year of service after twenty-five years. The participating employer in the case of any police officer eligible for the additional pension benefit prescribed by this section shall make additional contributions to the appropriate fund of

the retirement system necessary to pay the difference between the amounts prescribed by this section and the amount the member would otherwise be entitled to receive at the time of his or her retirement.

b. The service in the police force of each member of such force entitled to additional pension credit under this section shall be terminated and he shall be retired on the first day of the calendar month next succeeding his attainment of age sixty-two provided however that in the case of the chief of such force, his service shall be terminated and he shall be retired on the first day of the calendar month next succeeding his attainment of age sixty-five. Notwithstanding the foregoing, during the period terminating March thirty-first, nineteen hundred seventy-four, such chief shall be retired on the first day of the calendar month next succeeding his attainment of age seventy; provided that service rendered by such chief after attaining age sixty-five shall not be used to provide additional benefits, except that the salary paid for such service may be used in the computation of benefits.

c. The provisions of subdivisions f, g, and h of section three hundred eighty-four of this chapter shall not be applicable to the village of Hempstead in the county of Nassau.

§ 384-b. Retirement of members of the police department of the city of Glen Cove, after twenty years of service. a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "Police department". Members of the city of Glen Cove police department.

2. "Service in such department". Full time police duty as an officer or member of the organized police department in the above mentioned city.

b. Every member in the police department who enters or re-enters

service in the department on or after July first, nineteen hundred sixty-five, and who is contributing under former section eighty-four-a of this chapter and members entering or re-entering service in the department on and after April first, nineteen hundred sixty-seven and prior to September first, nineteen hundred eighty, shall contribute to the retirement system in the manner provided for by this section.

c. Every member in the police department who entered such service prior to July first, nineteen hundred sixty-five and who elected to contribute under former section eighty-four-a of this chapter shall contribute on the basis provided for by this section.

d. A member who elected to contribute under former section eighty-four-a or is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-eightieth of his final average salary for each year of service as a member rendered after July first, nineteen hundred sixty-five and prior to the attainment of the age when he shall first become eligible for retirement. No such member shall be required to continue contributions after completing twenty years of service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty years of total creditable service in such department, or upon the attainment of age sixty-two, by filing an application therefore in a manner similar to that provided in section seventy of this article. He thereupon shall receive on retirement a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which is the actuarial equivalent of the

reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

3. A pension of one-eightieth of his final average salary for each year of service rendered:

(a) Since he last became a member, and

(b) Prior to the completion of twenty years of total service in such department, and

(c) Toward which he and his employer have contributed under this section, plus

4. An additional pension, if required, of such amount as shall be necessary to increase the total amount of the benefits provided under paragraphs one, two and three of this subdivision e to at least one-half of his final average salary. The computation of this pension shall be limited so that the total service in such department used as a basis for pension credit under this paragraph four and paragraph three of this subdivision e, shall not exceed twenty years, plus

5. An additional pension equal to the pension for any creditable service rendered while not an employee of such department as provided under paragraphs three and four of subdivision (a) of section three hundred seventy-five of this article. This pension shall be based on member's final average salary, and

(a) Be payable only if such member has attained age sixty-two at the time of retirement and has not completed twenty years of service in such department for which he receives credit under this article, and

(b) Not increase the total allowance to more than he would have received had his total service been rendered in such department.

For the purpose only of determining the amount of the pension provided in this subdivision, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in

payment of his contributions for old-age survivors insurance coverage.

f. A member who elects or is required to contribute in accordance with this section shall retire on the first day of the calendar month next succeeding his attainment of age sixty-two.

g. The increased pensions to any member in such department, as provided by this section, shall be paid from additional contributions made by the appropriate participating employer on account of such member. The actuary of the retirement system shall compute the additional contributions for each member who elects the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the participating employer for its police department. Such amount shall be paid on the warrant of the fiscal officer of the participating employer to the pension accumulation fund of the retirement system.

h. In computing the twenty years of completed service of a member in the police department, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president for Mexican border service.

i. The provisions of this section shall be controlling, notwithstanding any provision in this article to the contrary.

§ 384-c. Additional pension benefits for certain police officers after twenty-five years of service. a. In the event a member of the police force of the city of Glen Cove, in the county of Nassau, who is contributing to the retirement system, shall continue in service after twenty-five years of total creditable police service under such section in such force, he or she shall receive, upon retirement, in addition to the amount of any retirement allowance he or she would otherwise be entitled to receive, pursuant to the applicable provisions of this chapter, an additional pension for such service of one-sixtieth of his or her final average salary for each completed additional year of service after twenty-five years. The participating employer in the case of any police officer eligible for the additional pension benefit prescribed by this section shall make additional contributions to the appropriate fund of the retirement system necessary to pay the difference between the amounts prescribed by this section and the amount the member would otherwise be entitled to receive at the time of his or her retirement.

b. The service in the police force of any member of such force, to be eligible for the additional pension credit under this section shall be terminated and he shall be retired on or before the first day of the calendar month next succeeding his attainment of age sixty-two provided, however, that in the case of the chief of such force who has attained the age of sixty-two on or before September first, nineteen hundred sixty-six, to be eligible for additional pension credit under this section, his service shall be terminated and he shall be retired on or before August thirty-first, nineteen hundred seventy.

Notwithstanding the foregoing, during the period terminating August thirty-first, nineteen hundred seventy, such chief shall be retired on the first day of the calendar month next succeeding his attainment of age seventy; provided that service rendered by such chief after attaining age sixty-five shall not be used to provide additional benefits, except that the salary paid for such service may be used in the computation of benefits.

c. The provisions of subdivisions f, g and h of section eighty-four of this chapter shall not be applicable to the city of Glen Cove in the county of Nassau.

§ 384-d. Optional twenty year retirement plan for certain firefighters and police officers whose employer elects to provide same.

a. Any member of the retirement system who is a firefighter, police officer or officer of any organized fire department or organized police force or police department of any county, city, town, village, fire district, police district or participating employer may elect to contribute to the retirement system pursuant to this section within one year after he or she becomes such an officer or member, if his or her employer has previously elected to make the benefits provided herein available to its officers and members, or within one year after his or her employer elects to make the benefits provided herein available to its officers and members.

b. Elections made pursuant to this section shall be in writing and shall be duly acknowledged and filed with the comptroller. Any member who files such an election pursuant to this section may withdraw it after it has been filed for at least a year. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. After such withdrawal such member shall contribute to the retirement system as otherwise provided in this article.

c. A member who elects to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-eightieth of his final average salary for each year of service as a member rendered after his employer elects the provisions of this section, and prior to the attainment of the age when he shall first become eligible for retirement.

Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller, make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. Such member's rate of contribution shall also be appropriately reduced by any multiple of twenty-five per centum of the additional cost which a member's employer has elected to contribute on his behalf in lieu of such member's contributions pursuant to this subdivision.

d. No such member shall be required to make contributions after completing twenty years of such service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty years of total creditable service in such fire department or police force or department, or upon the attainment of age sixty-two, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article.

(1) Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity, if any, which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

(2) Upon attainment of age sixty-two and upon retirement without completion of twenty years of such service, each such member shall receive a pension which together with an annuity, if any, which shall be

the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of creditable service in such fire department or police force or department. Every such member shall also be entitled to an additional pension equal to the pension for any creditable service rendered while not an employee of such fire department or police force or department as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of his final average salary.

For the purpose only of determining the amount of the pension provided in this subdivision e, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

f. The increased pensions to such members, as provided by this section, shall be paid from additional contributions made by the participating employer on account of such members. The actuary of the retirement system shall compute the additional contribution required for each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the participating employer for its fire department and police force or department. Such amount shall be paid on

the warrant of the fiscal officer of the participating employer to the pension accumulation fund of the retirement system.

g. In computing the twenty years of completed service of a member of a police department or fire department, full credit shall be given for military service as defined in subdivisions twenty-nine-a and thirty of section three hundred two of this chapter. In addition, full credit shall be given and full allowance shall be made for prior service in a fire department or police force or department, other than the force or department in which he is a member at the time of retirement, if his employer elects to assume the cost of such prior fire or police service as hereinafter provided.

The member's employer, however, by appropriate action, may (a) in its initial action under this section, elect to assume all of the additional cost on account of service as an officer or member of any such department or force rendered to such employer prior to the effective date of such election and (b) in any subsequent action, as hereafter provided in this paragraph, elect to assume all of the additional cost on account of previous service as an officer or member of any such other department or force and, in addition may in its initial action under this section, elect to assume any multiple of twenty-five per centum of such additional cost on account of such service for such current employer rendered on and after the effective date of such initial election. Any subsequent election changing the percentage of additional cost assumed by an employer shall apply only to service rendered for such employer on and after the effective date of such subsequent election. The employer shall pay the additional cost so assumed by any such election by means of annual contributions which shall be determined by the actuary and paid by the employer in the same manner as the contributions required under section three hundred twenty-three of this article. An employer, which in its initial action elected to assume all of the additional cost on account of service only as an officer or member of its police or fire department rendered prior to the effective date of such election may elect to assume all of the additional cost, including the cost of the necessary actuarial reevaluation on account of previous service rendered as an officer or member of any such organized

fire department or organized police force or department of any county, city, town, village, fire district, police district, or participating employer other than such employer.

h. Upon retirement of any member pursuant to this section, any additional amounts credited to the member's annuity savings account pursuant to subdivision b of section three hundred thirty of this article shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity prescribed by this section. Any other amounts credited to the member's annuity savings account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision e of this section, may at the option of the member at the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

i. Every member contributing on the basis of this section shall be separated from the service on the last day of the calendar month next succeeding the calendar month in which he or she attains age sixty-five, provided, however, that such a member who attained the age of sixty-five before his or her employer elected to make the benefits provided herein available to him or her, or who attains the age of sixty-five within one month after his or her employer makes such benefits available, to be eligible for a pension computed in accordance with the provisions of subdivision e of this section, shall be separated from the service within three months after his or her employer makes such benefits available, or on or before December thirty-first, nineteen hundred sixty-eight, whichever shall last occur, provided further, however, to be eligible to remain on payroll under this section after attaining the age of sixty-two, such members must be capable of performing the duties of their position.

j. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

k. The benefits of this section shall be available only to those

police officers and firefighters whose employer elects to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller.

l. Except for members of the Westchester county department of public safety services who are required to contribute to the retirement system in the manner provided by section three hundred eighty-six of this article, every member who enters or reenters service in the Westchester county department of public safety services on or after July first, nineteen hundred seventy-nine, and who is engaged directly in criminal law enforcement activities which aggregate fifty per centum or more of said member's service, shall contribute to the retirement system in the manner provided for by this section.

m. Notwithstanding any inconsistent provision of law, if the town board of the town of Southampton elects to make the benefits of this section available to the members of its police department, each member of such department shall be separated from service upon completion of twenty years of service, provided, however, that the town board may permit a member to continue in service on an annual basis after the completion of twenty years of service, but in no event shall such annual service be continued after a member has attained age sixty unless such member has not attained twenty years of service, except however, that a member of such department who holds the rank of chief within such department may be permitted by the town board to remain in service until such member has attained the age of sixty-five.

n. Notwithstanding any inconsistent provision of law, if the village board of the village of Westhampton Beach elects to make the benefits of this section available to the members of its police department, each member of each department shall be separated from service upon completion of twenty years of service, provided, however, that the village board will permit a member to continue in service on an annual basis after the completion of twenty years of service, but in no event shall such optional service be continued after a member has attained age fifty-five.

o. Any member of the police and fire retirement system who was a member of the New York state employees' retirement system while employed as a police department cadet and whose membership therein was terminated by his or her attaining membership in the police and fire retirement system, may purchase credit in the said police and fire retirement system for prior creditable service in the New York state employees' retirement system earned while employed as a police department cadet and shall have the period of such prior service credit counted as police service for the purpose of determining the amount of his or her pension and retirement allowance and period of service needed for retirement. In order to purchase credit pursuant to this subdivision, the member shall pay into the pension accumulation fund the contribution amount as determined by the comptroller, either in a lump sum or in installments, necessary to pay in full the cost of such previous service. If such payment be made in installments, the same shall be paid within a period no greater than the number of months of such member service granted.

p. (1) Any member of the police and fire retirement system, who was a member of the New York state and local employees' retirement system while employed as a police department cadet and whose membership therein was terminated by his or her attaining membership in the police and fire retirement system, may purchase credit in the said police and fire retirement system for prior creditable service in the New York state employees' retirement system earned as a police department cadet and shall have the period of such prior service credit counted as police service for the purpose of determining the amount of his or her pension and retirement allowance and period of service needed for retirement. In order to purchase credit pursuant to this subdivision a member shall deposit in the pension accumulation fund a sum equal to the product of the participating employers' normal contribution rate at the time of the member's entry into such police department cadet service, his or her annual rate of compensation at that time, and the period of police department cadet service being claimed, with regular interest. Such deposit must be made within one year of the date of election by the participating employer, provided however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed, in which case such payments must commence

within one year of the date of election by the participating employer. If the full amount of such payments is not paid to the retirement system, the amount of service credited shall be proportional to the total amount of the payments made.

(2) The benefit provided for in paragraph one hereof shall be conditioned upon the participating employer electing, within three years of the effective date of this subdivision, in a manner similar to that provided in subdivision a of section three hundred thirty of this article to provide this benefit and assuming the additional cost thereof on account of all of the officers and members of its organized police force or department who are contributing under the provisions of this section. The benefit provided for in paragraph one of this subdivision shall be paid from additional contributions made by the appropriate participating employer on account of such members. The actuary of the retirement system shall compute the additional contributions for each employer who elects to provide the benefits provided under paragraph one of this subdivision. Such additional contributions shall be computed on the basis of contributions during the prospective service of such members which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the fiscal officer of the participating employer.

q. Notwithstanding any inconsistent provision of law, if any person formerly employed as a paramedic by the town of Tonawanda between the period of October seventeenth, nineteen hundred seventy-four to May fourteenth, nineteen hundred eighty and who became employed by said town as a police officer on May fifteenth, nineteen hundred eighty and was assigned to the fifty-five year police retirement plan due to no negligence of his own, desires to join the twenty year plan, he shall have six months after the effective date of this subdivision to make application for said transfer.

r. The benefits hereinabove provided shall be payable to a member, unless at the date of retirement, such member would otherwise be entitled to a greater benefit under other provisions of this article had he withdrawn from this section, in which event such greater benefits

shall be payable.

s. 1. Any member of the city of Yonkers police department or fire department who was previously enrolled in an optional twenty year retirement plan pursuant to this section and whose enrollment in such plan ceased upon transfer to the retirement plan created pursuant to section three hundred eighty-eight of this article, may elect to re-enroll in the twenty year retirement plan pursuant to this section if the city council of the city of Yonkers elects to make such benefits available.

2. The benefits provided by paragraph one of this subdivision shall be conditioned upon the participating employer electing within three years of the effective date of this subdivision, in a manner similar to the election stipulated in subdivision b of section three hundred thirty of this article, to provide such benefits and to assume the additional cost of such benefits for all officers and members of its organized police department and fire department who otherwise transferred to the retirement plan provided by section three hundred eighty-eight of this article.

t. Any member of the New York state and local police and fire retirement system who was a member of the New York city employees' retirement system while employed as a New York city police department trainee or a New York city transit officer trainee and whose membership therein was terminated by his attaining membership in the New York state and local police and fire retirement system, may purchase credit in the New York state and local police and fire retirement system for prior creditable service in the New York city employees' retirement system earned while employed as a police department trainee or transit officer trainee and shall have the period of such prior service credit counted as police service for the purpose of determining the amount of his pension and retirement allowance and period of service needed for retirement. In order to purchase credit pursuant to this subdivision, the member shall pay into the pension accumulation fund the contribution amount as determined by the comptroller, either in a lump sum or in installments, necessary to pay in full the cost of such previous

service. If such payment be made in installments, the same shall be paid within a period no greater than the number of months of such member service granted.

* u. (1) Any member of the Nassau county police department who is enrolled in section three hundred eighty-five-a of this article, may elect to enroll in the twenty year retirement plan pursuant to this section if Nassau county elects to make such benefits available.

(2) The benefits provided by paragraph one of this subdivision shall be conditioned upon the participating employer electing within three years of the effective date of this subdivision, in a manner similar to the election stipulated in subdivision b of section three hundred thirty of this article, to provide such benefits and to assume the additional cost of such benefits for all officers and members of its organized police department who otherwise would be covered by the retirement plan provided by section three hundred eighty-five-a of this article.

* NB There are 2 sub u's

* u. 1. Any member of the Suffolk county police department who is enrolled in the retirement plan provided by section three hundred eighty-seven-a of this article, may elect to enroll in the twenty year retirement plan pursuant to this section if Suffolk county elects to make such benefits available.

2. The benefits provided by paragraph one of this subdivision shall be conditioned upon the participating employer electing within three years of the effective date of this subdivision, in a manner similar to the election stipulated in subdivision b of section three hundred thirty of this article, to provide such benefits and to assume the additional cost of such benefits for all officers and members of its organized police department who otherwise would be covered by the retirement plan provided by section three hundred eighty-seven-a of this article.

* NB There are 2 sub u's

v. (1) Notwithstanding any inconsistent provision of law, those individuals employed as police officers by the village of Freeport, specifically Kevin Case, Shawn Randall, Andrew Rhan, Scott Ballard and Michael Horne, and who are enrolled in an improved career retirement plan authorized pursuant to section three hundred seventy-five-i of this

article, who for reasons not ascribable to their own negligence failed to previously join the twenty year retirement plan pursuant to this section may elect to enroll in such plan if the village of Freeport elects to make such benefits available.

(2) The benefits provided by paragraph one of this subdivision shall be conditioned upon the participating employer electing within three years of the effective date of this subdivision, in a manner similar to the election stipulated in subdivision b of section three hundred thirty of this article, to provide such benefits.

(3) The employer shall have the option of amortizing the cost of this measure over a period of five years.

w. Notwithstanding any other provision of law to the contrary, any member of the New York state and local police and fire retirement system who was a member of the New York state and local employees' retirement system while employed as an investigator-trainee, Waterfront Commission of New York Harbor or the New York Waterfront Commission, which are not deemed to be police service, who are employed by the New York Waterfront Commission, which is an employer electing to participate in the optional twenty year retirement plan pursuant to this section shall be deemed to have provided police service while so employed by the Waterfront Commission of New York Harbor or the New York Waterfront Commission and shall receive creditable service in the New York state and local police and fire retirement system for prior creditable service in the New York state and local employees' retirement system earned while employed as an investigator-trainee and shall have the period of such prior service credit counted as police service for the purpose of determining the amount of their pension and retirement allowance and period of service needed for retirement.

x. Notwithstanding any provision of this section, service as an aircraft rescue firefighter employed by the Niagara frontier transportation authority shall be included for the purposes of computing police or fire service for retirement pursuant to this section, provided such authority has elected to participate in the New York state and local police and fire retirement system and elects to provide the benefit of this section.

y. Any member currently enrolled pursuant to this section and who previously transferred service credit from the New York state and local employees' retirement system to the New York state and local police and fire retirement system, may elect to transfer such previously transferred service credit back to the New York state and local employees' retirement system, and such member shall have the option to retroactively transfer his or her membership into such employees' retirement system.

§ 384-e. Additional pension benefit for members of optional twenty year retirement plan. a. A participating employer which has elected, or which elects, pursuant to section three hundred thirty or three hundred thirty-one of this article, to provide the benefits of the optional twenty year retirement plan for its employees as specified in section three hundred eighty-four-d of this article may elect, pursuant to section three hundred thirty-three of this article, to make contributions for the purpose of providing an additional pension pursuant to this section for members in its employ who are entitled to a pension pursuant to section three hundred eighty-four-d of this article.

b. Upon retirement, each such member shall receive, for each year of service in excess of twenty, an additional pension which shall be equal to one-sixtieth of his or her final average salary; a participating employer may elect to provide any service credit earned with a public employer prior to service performed as a police officer or firefighter; provided, however, that the total allowance payable pursuant to this section shall not exceed three-quarters of such member's final average salary.

c. A demand in collective negotiations for the additional pension benefit provided by this section shall not be subject to the provisions of paragraph (b) or (c) of subdivision four of section two hundred nine of the civil service law.

§ 385. Retirement of members in the Nassau county police department.

a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "County." Nassau county.
2. "Department." The county police department.

3. "Total service in such department." Service in the department, the police department or police force of any town, village or police district in the county, in the office of the sheriff of Nassau county prior to April sixteen, nineteen hundred twenty-five, as a Long Island state park patrolman, or in the division of state police in the state executive department.

b. Any member in the department, including the commissioner of police, who so elected, on or before January first, nineteen hundred forty-eight, to contribute to the New York state and local employees' retirement system pursuant to the provisions of former section eighty-five of this chapter in effect prior to April first, nineteen hundred sixty-seven, shall contribute to the police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of total service in such department, or

2. Attainment of age sixty in the service of such department if prior thereto,
on an allowance of one-fiftieth of his final average salary for each year of total service in such department not in excess of twenty-five years, provided such election was in writing and duly executed and filed with the comptroller.

c. Every employee who entered or re-entered service in the department on or after May sixth, nineteen hundred forty-six, and before January first, nineteen hundred forty-eight, shall contribute on the basis

provided for by this section. Employees who entered or re-entered service in the department on and after January first, nineteen hundred forty-eight but prior to January first, nineteen hundred sixty-six:

1. As members of the police force shall contribute on the basis provided for by this section.

2. Other than as members of the police force, shall not be eligible to the benefits of this section.

- d. Subject to the provisions of subdivisions b and c of this section, every employee in the service of such department who is not a member of the police and fire retirement system may elect to become a member. He or she thereupon shall contribute to the police and fire retirement system under the provisions of this section and be entitled to benefits as provided in this section. No such employee, however, shall be given credit for service rendered prior to May sixth, nineteen hundred forty-six, unless he or she became a member of the New York state and local employees' retirement system on or before January first, nineteen hundred forty-eight and has subsequently become a member of the police and fire retirement system. Any such employee who became a member of the New York state and local employees' retirement system, on or before January first, nineteen hundred forty-eight, and has subsequently become a member of the police and fire retirement system shall be entitled to credit for past service in the department as if he or she had become a member when first eligible. Such employee, however, shall pay the contributions he or she would have made prior to such date had he or she been a member during such service. The amount of such contributions shall be paid in a lump sum or in such installments as the comptroller shall approve. In lieu of such payment, however, such employee may receive on retirement the benefit otherwise provided by this section, less such annuity as is the actuarial equivalent of such unpaid contributions.

- e. A member, who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this

article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member rendered after May sixth, nineteen hundred forty-six, and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. No such member shall be required to continue contributions after completing twenty-five years of such service.

f. A member, contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in such department, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, on retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

3. A pension of one-one hundredth of his final average salary for each year of service rendered:

- (a) Since he last became a member, and

(b) Prior to the completion of twenty-five years of total service in the department, and

(c) Toward which he and his employer have contributed under this section, plus

4. An additional pension of one-fiftieth of his final average salary, multiplied by the number of years of total service in such department prior to May sixth, nineteen hundred forty-six. This pension shall be payable only if such member has had one or more years of service as a member. The computation of this pension shall be subject to the further conditions that:

(a) The service rendered prior to May sixth, nineteen hundred forty-six, shall be limited so that the total service in such department used as a basis for pension credit under this paragraph four and paragraph three of this subdivision f shall not exceed twenty-five years, and

(b) The amount of the additional pension payable pursuant to this paragraph four shall not exceed the amount needed to increase the total amount of the benefits provided under paragraphs one, two and three of this subdivision f to one-half of the final average salary, plus

5. An additional pension equal to the pension for any creditable service rendered while not an employee of the department as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service in the department for which he receives credit under this article, and

(b) Not increase the total allowance to more than he would have received had his total service been rendered in the department.

6. In the event a member shall continue in service after twenty-five years of total creditable service in the department there shall be added to his pension upon retirement a sum equal to one-sixtieth of his final average salary for each completed additional year of service after twenty-five years.

7. An additional pension, if required, of such amount as shall be necessary to increase the total amount of the benefits provided by paragraphs one, two, three, four and five of this subdivision f, to one-half of his final average salary. The pension provided by this paragraph shall be payable only if a member retires from service prior to attaining age fifty-nine, provided, however, that in the case of any member who has attained the age of fifty-nine on or before September first, nineteen hundred sixty-eight, to be eligible for the additional pension provided by this paragraph, his service shall be terminated and he shall be retired on or before December thirty-first, nineteen hundred sixty-eight. For the purpose of determining the amount of pension provided in this paragraph, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan if it were not increased by the actuarial equivalent of any additional contributions and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

g. The increased pensions to members of the department, as provided by this section, shall be paid from additional contributions made by the county on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution for each member who elects the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the police and fire retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him or her to the county executive of the county. The amount thereof shall be included in the annual appropriation of the county for county police. Such amount shall be paid on the warrant of the county comptroller to the pension accumulation fund of the police and fire retirement system. Every member entering or re-entering the department on and after May sixth, nineteen hundred forty-six, shall retire on the first day of the calendar month next succeeding his or her attainment of age fifty-nine.

h. In computing the twenty-five years of completed service of a member in the department, full credit shall be given and full allowance shall be made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to call of the president for Mexican border service.

i. Upon retirement of any member pursuant to this section, any additional amounts credited to the member's annuity savings account pursuant to subdivision b of section three hundred thirty of this article shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity prescribed by this section. Any other amounts credited to the member's annuity savings account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision f of this section, may at the option of the member at the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

j. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 385-a. Retirement of members of the Nassau county police force; new plan. a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "County." Nassau county.

2. "Police force." The term "police force" shall include only those members of the police department who are appointed as police officers. Such term, however, shall also include every employee of the police department who entered such service prior to January first, nineteen hundred forty-eight and who has been contributing since that date in accordance with the provisions of section three hundred eighty-five of this article.

3. "Creditable service." Full time duty as an officer or member of the police force or full time police duty as an officer or member of the police force of any town, village, city or police district in the county, in the office of the sheriff of the county prior to April sixteenth, nineteen hundred twenty-five, as sheriff of the county prior to December thirty-first, nineteen hundred sixty-five, as a Long Island state park patrolman, or in the division of state police in the state executive department.

b. Every member of the police force, including the commissioner who entered or re-entered service on the police force on and after January first, nineteen hundred sixty-six and members entering or re-entering service on the police force on and after April first, nineteen hundred sixty-seven, and prior to September first, nineteen hundred seventy-eight, shall contribute on the basis provided for by this section.

c. Any member of the police force who elected to contribute under former section eighty-five-a of this chapter shall contribute on the basis provided for by this section.

d. A member of the police force who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be the same as that which was or which would be computed under subdivision e of section eighty-five of this article, notwithstanding the fact that such member will be eligible for retirement after twenty years of creditable service. In no event shall a

member contribute under this section at a higher rate than he was or would be required to contribute under subdivision e of section eighty-five of this article had this section not been enacted.

Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller, make an election to waive such reduction as provided by subdivision j of section twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

e. No member of the police force shall continue to make contributions after completing twenty years of creditable service.

f. A member of the police force, contributing on the basis of this section shall be entitled to retire after the completion of twenty years of creditable service, or on the first day of the month following the attainment of the mandatory retirement age, by filing an application therefor in a manner similar to that provided in section seventy of this article.

(1) Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

(2) Upon attainment of the mandatory retirement age and upon retirement without completion of twenty years of such service, each such member shall receive a pension which together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which

he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of creditable service.

Only for the purpose of determining the amount of the pension provided in this subdivision, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions or contributions pursuant to waiver under subdivision j of section twenty-one of this article, and if it were not reduced by reason of the members election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

g. The increased pensions to members of the police force, together with all other expenses of this retirement plan exceeding the contribution required to be made by members pursuant to subdivision d of this section, shall be paid from contributions made by the county on account of such members. The actuary of the retirement system shall compute the additional contribution for each member who participates under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him to the county executive of the county. The amount thereof shall be included in the annual appropriation of the county for the Nassau county police. Such amount shall be paid on the warrant of the county comptroller to the pension accumulation fund of the retirement system.

h. Every member of the police force except the commissioner of police contributing under this section shall leave the service on the last day of the calendar month in which he attains age fifty-nine, which shall be his mandatory retirement age. The commissioner after age fifty-nine and before age seventy may elect to retire and if he does so the date of his retirement shall for the purpose of this section be deemed his mandatory

retirement age.

i. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 386. Retirement of members in the Westchester county department of public safety services; closed plan. a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "County." Westchester county.

2. "Department." Prior to July first, nineteen hundred seventy-nine, the Westchester county parkway police force; on or after July first, nineteen hundred seventy-nine, the Westchester county department of public safety services.

3. "Service in such department." Full time police duty as an officer or member of such department, or the police department or police force of any city, town, village or police district in the county, or in the division of state police in the state executive department.

b. Any member in service in such department on January first, nineteen hundred fifty-eight, who elected, on or before July first, nineteen hundred fifty-eight, to contribute to the New York state employees' retirement system pursuant to the provisions of former section eighty-six of this chapter, in effect prior to April first, nineteen hundred sixty-seven, shall contribute to the police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of service in such department, or

2. Attainment of age sixty in service in such department, if prior thereto,
on all allowance of one-fiftieth of his final average salary for each year of service in such department not in excess of twenty-five years,

provided such election was in writing and duly executed and filed with the comptroller.

c. On or after January first, nineteen hundred fifty-eight, but prior to July first, nineteen hundred seventy, employees entering or re-entering service in such department:

1. As members of the police force shall contribute on the basis provided for by this section.

2. Other than as members of the police force shall not be eligible to the benefits of this section.

d. A member, who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member rendered on and after January first, nineteen hundred fifty-eight, and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member, contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of

twenty-five years of creditable service in such department or upon attainment of age sixty, if prior thereto, by filing an application therefore in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, upon retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

3. A pension of one-one hundredth of his final average salary for each year of service rendered:

- (a) Since he last became a member, and

- (b) Prior to the completion of twenty-five years of service in such department, and

- (c) Toward which he and his employer have contributed under this section, plus

4. An additional pension of one-fiftieth of his final average salary, multiplied by the number of years of service in such department prior to January first, nineteen hundred fifty-eight. This pension shall be payable only if such member has had one or more years of service as a member. The computation of this pension shall be subject to the further conditions that:

- (a) The service shall be limited so that the service in such department used as a basis for pension credit under this paragraph four and paragraph three of this subdivision e shall not exceed twenty-five years, and

- (b) The amount of the additional pension payable pursuant to this paragraph four shall not exceed the amount needed to increase the total amount of the benefits provided under paragraphs one, two and three of this subdivision e to one-half of the final average salary, plus

5. An additional pension equal to the pension for any creditable

service rendered while not an employee of such department as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service in such department for which he receives credit under this article, and

(b) Not increase the total allowance to more than he would have received had his total service been rendered in such department.

f. The increased pensions to members of such department, as provided by this section, shall be paid from additional contributions made by the county on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution for each member who elects the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the police and fire retirement system for such extra pensions. Upon the approval by the comptroller, such additional contributions shall be certified by him or her to the county executive of the county. The amount thereof shall be included in the annual appropriation of the county for the Westchester county parkway police force. Such amount shall be paid on the warrant of the county department of finance to the pension accumulation fund of the police and fire retirement system.

g. In computing the twenty-five years of completed service in such department, full credit shall be given and full allowance shall be made for service of such member in war after world war I as defined in section two of this article, provided such member at the time of his entrance into the armed forces was in service in such department, and for service in time of war during world war I and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors and marines who were actual residents of the state at the time of their entry into the military service of the United States.

h. Upon retirement of any member pursuant to this section, any additional amounts credited to the member's annuity savings account pursuant to subdivision b of section three hundred thirty of this article shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity prescribed by this section. Any other amounts credited to the member's annuity savings account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision e of this section, may at the option of the member of the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

i. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 387. Retirement of members in the Suffolk county police force. a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "County." Suffolk county.

2. "Department." Suffolk county police department.

3. "Service in such department." Full time police duty as an officer or member of such department, or full time police duty or bay constable duty as an officer or member of the police force, police department or constable of any town, village or police district in the county, or as a criminal investigator in the office of the district attorney of Suffolk county prior to January first, nineteen hundred sixty or as a Long Island state park patrolman or a member of the division of state police in the state executive department.

b. Any member in service in such department, including the commissioner of police, on January first, nineteen hundred sixty, who

elected, on or before July first, nineteen hundred sixty, to contribute to the New York state employees' retirement system pursuant to the provisions of former section eighty-seven of this chapter, in effect prior to April first, nineteen hundred sixty-seven, shall contribute to the police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of service in such department, or

2. Attainment of age sixty in service in such department if prior thereto, on an allowance of one-fiftieth of his final average salary for each year of service in such department not in excess of twenty-five years, provided such election was in writing and duly executed and filed with the comptroller.

c. On or after January first, nineteen hundred sixty, employees entering or re-entering service in such department:

1. As members of the police force, including the commissioner of police or deputy commissioner of police, shall contribute on the basis provided for by this section.

2. Other than as members of the police force shall not be eligible to the benefits of this section.

d. A member, who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member rendered on and after January first, nineteen hundred sixty, and prior to the attainment of the age when he shall first become eligible for retirement. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member, contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of creditable service in such department or upon attainment of age sixty, if prior thereto, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, upon retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

- 1-a. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

2. A pension of one-one hundredth of his final average salary for each year of service rendered;

- (a) Since he last became a member, and

- (b) Prior to the completion of twenty-five years of service in such department, and

- (c) Toward which he and his employer have contributed under this section, plus

3. An additional pension of one-fiftieth of his final average salary, multiplied by the number of years of service in such department prior to January first, nineteen hundred sixty. This pension shall be payable only if such member has had one or more years of service as a member. The computation of this pension shall be subject to the further conditions that:

- (a) The service shall be limited so that the service in such department used as a basis for pension credit under this paragraph three and paragraph two of this subdivision e shall not exceed twenty-five years, and

- (b) The amount of the additional pension payable pursuant to this paragraph three shall not exceed the amount needed to increase the total of the benefits provided under paragraphs one and two of this

subdivision e to one-half of the final average salary, plus

4. An additional pension equal to the pension for any creditable service rendered while not an employee of such department as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service in such department for which he receives credit under this article, and

(b) Not increase the total allowance to more than he would have received had his total service been rendered in such department.

f. The increased pensions to members of such department, as provided by this section, shall be paid from additional contributions made by the county on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution for each member who elects the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the police and fire retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him or her to the county executive of the county. The amount thereof shall be included in the annual appropriation of the county for the Suffolk county police department. Such amount shall be paid on the warrant of the comptroller of the county to the pension accumulation fund of the police and fire retirement system.

g. In computing the twenty-five years of completed service in such department, full credit shall be given and full allowance shall be made for service of such member in war after world war I as defined in section three hundred two of this article, provided such member at the time of his entrance into the armed forces was in service in such department, and for service in time of war during world war I and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers,

sailors and marines who were actual residents of the state at the time of their entry into military service of the United States.

h. Upon retirement of any member pursuant to this section, any additional amounts credited to the member's annuity savings account pursuant to subdivision b of section three hundred thirty of this article shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity prescribed by this section. Any other amounts credited to the member's annuity savings account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision e of this section, may at the option of the member at the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

i. A member who elected or is required to contribute in accordance with this section, who does not apply for retirement upon completion of twenty-five years of service in such department, may, at the option of the commissioner of police of Suffolk county, be separated from service at any time subsequent to the completion of twenty-five years of service in such department.

j. The provisions of this section shall be controlling notwithstanding any provisions in this article to the contrary.

§ 387-a. Retirement of members of the Suffolk county police force; new plan. a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "County." Suffolk county.

2. "Police force." All members of the police department excepting those members appointed to render clerical or stenographic, mechanical, chauffeur or laboring service exclusively. Such term, however, shall

also include every employee of the police department who entered such service prior to January first, nineteen hundred sixty and who has been contributing since that date in accordance with the provisions of section eighty-seven of this article.

3. "Creditable service." Full time police duty as an officer or member of such department, or full time police duty or bay constable duty as an officer or member of the police force, police department or constabulary of any town, village or police district in the county, or as a criminal investigator in the office of the district attorney of Suffolk county or full time police duty as a police officer in any city of the state of New York prior to January first, nineteen hundred sixty or as a Long Island state park patrolman or a member of the division of state police in the state executive department.

b. Every member of the police force, including the commissioner, who enters or re-enters service on the police force on or after January first, nineteen hundred sixty-eight, shall contribute to the retirement system in the manner provided for by this section. On and after January first, nineteen hundred seventy-nine no person may elect to be covered under the provisions of this section.

c. Any member of the police force who is contributing on the basis of retirement at age sixty or under sections three hundred seventy-one, three hundred seventy-one-a, three hundred seventy-two, three hundred seventy-five, three hundred eighty-four or three hundred eighty-seven of this article, may, on or after September first, nineteen hundred sixty-seven, and before January first, nineteen hundred sixty-nine, elect to come under the provisions of this section. Such election shall be in writing and shall be duly executed and filed with the comptroller. By such election, such member shall waive any and all rights and benefits to which he was previously entitled under sections three hundred seventy-one, three hundred seventy-one-a, three hundred seventy-two, three hundred seventy-five, three hundred eighty-four or three hundred eighty-seven of this article, and shall accept instead, the rights and benefits of this section as of January first, nineteen hundred sixty-nine. He thereupon shall be given credit for such service

and contributions as he was otherwise credited with under sections three hundred seventy-one, three hundred seventy-one-a, three hundred seventy-two, three hundred seventy-five, three hundred eighty-four or three hundred eighty-seven of this article.

d. A member of the police force who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be the same as that which was or which would be computed under subdivision d of section eighty-seven of this chapter, notwithstanding the fact that such member will be eligible for retirement after twenty years of creditable service. In no event shall a member contribute under this section at a higher rate than he was or would be required to contribute under subdivision d of section eighty-seven of this article had this section not been enacted.

Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller, make an election to waive such reduction as provided by subdivision j of section twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

e. No member of the police force shall continue to make contributions after completing twenty years of creditable service.

f. A member of the police force, contributing on the basis of this section shall be entitled to retire after the completion of twenty years of creditable service, or on the first day of the month following the attainment of the mandatory retirement age, by filing an application therefor in a manner similar to that provided in section seventy of this article.

(1) Upon completion of twenty years of such service and upon

retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

(2) Upon attainment of the mandatory retirement age and upon retirement without completion of twenty years of such service, each such member shall receive a pension which together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of creditable service.

Only for the purpose of determining the amount of the pension provided in this subdivision, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions or contributions pursuant to waiver under subdivision j of section twenty-one of this article, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

g. The increased pensions to members of the police force, together with all other expenses of this retirement plan exceeding the contribution required to be made by members pursuant to subdivision d of this section, shall be paid from contributions made by the county on account of such members. The actuary of the retirement system shall compute the additional contribution for each member who participates under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra

pensions. Upon approval by the comptroller, such additional contributions shall be certified by him to the county executive of the county. The amount thereof shall be included in the annual appropriation of the county for the Suffolk county police. Such amount shall be paid on the warrant of the county comptroller to the pension accumulation fund of the retirement system.

h. Every member of the police force except the commissioner of police or deputy commissioner of police contributing under this section shall leave the service on the last day of the calendar month in which he attains age sixty-two, which shall be his mandatory retirement age. The commissioner or deputy commissioner after age sixty-two and before age seventy may elect to retire and if he does so the date of his retirement shall for the purpose of this section be deemed his mandatory retirement age.

i. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

§ 388. Retirement of members in the city of Yonkers police force and fire department. a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "City." City of Yonkers.
2. "Department." City of Yonkers police department or fire department.
3. "Service in such department." Full time duty as a police officer, firefighter or police, fire officer or commissioner of the department.

b. Any member in service in such department on September first, nineteen hundred sixty-five, who elected to contribute under former section eighty-eight of this chapter, on or before January first, nineteen hundred sixty-six, shall contribute to the retirement system on the basis of retirement upon his:

1. Completion of twenty-five years of service in such department, or

2. Attainment of age sixty in service in such department, if prior thereto, on an allowance of one-fiftieth of his final average salary for each year of service in such department not in excess of twenty-five years, provided such election was in writing and duly executed and filed with the comptroller.

c. Employees entering or re-entering service in such department on and after September first, nineteen hundred sixty-five, and who contributed under former section eighty-eight of this chapter, and employees entering or re-entering service in such department on and after April first, nineteen hundred sixty-seven, shall contribute on the basis provided for by this section.

d. A member, who elects or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined.

Such latter proportion shall be the same as that which was or which would be computed under item three of subparagraph c of paragraph two of subdivision e of section three hundred eighty-four of this article. In no event shall a member contribute under this section at a higher rate than he was or would be required to contribute under item three of subparagraph c of paragraph two of subdivision e of section three hundred eighty-four of this article had this section not been enacted.

Such members' rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay, provided, however, that such member may by written notice duly acknowledged and filed with the comptroller, make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One

year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member, contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of creditable service in such department or upon attainment of age sixty, if prior thereto, by filing an application therefor in a manner similar to that provided in section seventy of this article.

(1) Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-half of his final average salary.

(2) Upon attainment of age sixty and upon retirement without completion of twenty-five years of such service, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, shall be sufficient to provide him with a retirement allowance equal to one-fiftieth of his final average salary for each year of creditable service in such division. Every such member shall also be entitled to an additional pension equal to the pension for any creditable service rendered while not an employee of the division as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this chapter. This latter pension shall not increase the total allowance to more than one-half of his final average salary.

For the purpose only of determining the amount of the pension provided in this subdivision, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

f. The increased pensions to members of such department, as provided by this section, shall be paid from additional contributions made by the city on account of such members. The actuary of the retirement system shall compute the additional contribution required for each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him to the mayor of the city of Yonkers. The amount thereof shall be included in the annual appropriations of the city. Such amount shall be paid on the warrant of the comptroller of the city to the pension accumulation fund of the retirement system.

g. In computing the twenty-five years of completed service in such department, full credit shall be given and full allowance shall be made for service of such member in war after world war I as defined in section two of this chapter, provided such member at the time of his entrance into the armed forces was in service in such department.

h. In the event a member shall continue in service after twenty-five years of creditable service, there shall be added to his pension upon retirement a sum equal to one-sixtieth of his final average salary for each additional year of service after twenty-five years.

i. Upon retirement of any member pursuant to this section, any additional amounts credited to the member's annuity savings account

pursuant to subdivision b of section three hundred thirty of this chapter shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity prescribed by this section. Any other amounts credited to the member's annuity savings account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision e of this section, may at the option of the member at the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

j. A member who elected or is required to contribute in accordance with this section, who does not apply for retirement upon completion of twenty-five years of service in such department or upon attainment of age sixty, shall retire from service on the last day of the calendar month next succeeding the calendar month in which he attains age sixty-four which shall be his mandatory retirement age.

k. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

*** § 389. Twenty year retirement plan for LIRR police officers.** a. As used in this section, the following words and phrases shall have the following meaning unless a different meaning is plainly required by the context:

1. "LIRR". The Long Island Railroad Company.

2. "LIRR police officer." A person who on or after the effective date of this section holds an appointment as a police officer in the LIRR police department pursuant to section eighty-eight of the railroad law as well as any probationary police officer in that department who is expected to hold such an appointment after completing the requisite training, but not including any such person unless the person's initial employment with that department was in the position of such probationary police officer or as a patrolman, policewoman, sergeant, lieutenant or

detective, or any successor title to any of the foregoing positions.

3. "LIRR police service." Service rendered prior to or on or after the effective date of this section by any LIRR police officer while serving only as a LIRR police officer.

4. "Twenty-year plan." The twenty year retirement plan for LIRR police officers as provided in this section.

b. Except as otherwise provided in this article, a LIRR police officer referred to in paragraph three of subdivision b of section three hundred forty of this article or a LIRR police officer referred to in paragraph one of subdivision c of such section who files an election pursuant to subdivision d of this section shall be entitled to all retirement system benefits provided to a member who participates in sections three hundred eighty-four-d and three hundred eighty-four-e of this article and who joins or rejoins the retirement system on the same date as such LIRR police officer joins or rejoins the retirement system (subject to the provisions of subdivision c of section four hundred forty of this chapter).

c. Except as otherwise provided in this article, any provision of law and any regulation promulgated by the head of the retirement system, including, but not limited to, any such provision or regulation pertaining to contributions, membership rights, benefits, service credit, and procedures which are applicable to a member who joins or rejoins the retirement system on the same date as a LIRR police officer joins or rejoins the retirement system (subject to the provisions of subdivision c of section four hundred forty of this chapter), as such member is referred to in subdivision b of this section, and by virtue of such member's membership in the retirement system, shall, to the extent that any such provision or regulation is found applicable by the head of the retirement system, apply to a LIRR police officer who contributes to the retirement system referred to in subdivision b of this section.

d. A LIRR police officer referred to in paragraph three of subdivision b of section three hundred forty of this article shall contribute to the

retirement system pursuant to the schedule provided in this paragraph upon becoming a LIRR police officer, which rate shall thereafter not be changed. A LIRR police officer referred to in paragraph one of subdivision c of such section shall contribute to the retirement system at the rate determined pursuant to the schedule provided in this paragraph commencing with the effective date of this section but based on his age when LIRR police service commenced, which rate shall thereafter not be changed. Except as otherwise provided in this article, such contributions shall be calculated, collected, credited and otherwise treated by the retirement system in the same manner as are member contributions and accumulated contributions under this chapter. A member of the twenty year plan shall not, however, be required to contribute pursuant to this paragraph after he has completed twenty years of LIRR police service, nor shall such a member be permitted to make contributions thereafter except as otherwise provided in this section prior to the completion of twenty years of LIRR police service. In the event of termination of employment with the LIRR as a LIRR police officer, a member of the twenty year plan who is not vested or entitled to any other benefit under this section or any other provision of this chapter may withdraw an amount equal to his accumulated contributions with interest credited thereon. In the event such membership shall terminate other than as a result of transfer to a public employer, any contributions and interest thereon remaining to the credit of the member shall be refunded. For the purpose of such withdrawal or refund, the contributions shall be credited with interest at the rate of five percent per annum. Upon withdrawal of contributions by a member pursuant to this paragraph, membership in the retirement system shall cease. A former member who thereafter returns to employment with the LIRR as a LIRR police officer shall not receive any credit for previous service to which such withdrawn or refunded contributions applied unless such member applies therefor and repays the amounts so withdrawn or refunded, together with interest through the date of repayment at the rate of five percent per annum.

Age at commencement of LIRR police service	Percentage rate
18	5.90
19	5.70

20	5.55
21	5.35
22	5.15
23	5.00
24	4.80
25	4.65
26	4.45
27	4.30
28	4.15
29	3.95
30	3.80
31	3.65
32	3.50
33	3.35
34	3.15
35 or older	3.00

e. In addition to such other sections of this chapter, as may pursuant to subdivision b of this section, apply in accordance with their terms (including, but not limited to, sections three hundred sixty-one, three hundred sixty-one-a, three hundred sixty-three, three hundred sixty-three-c and three hundred sixty-four), sections three hundred sixty-two, three hundred seventy-six, three hundred eighty-four-d, three hundred eighty-four-e and four hundred forty-eight of this chapter shall apply to a LIRR police officer who is a member of the retirement system in accordance with this section except as otherwise provided herein, and provided that LIRR police service shall be substituted for total service credit, as that latter term is used in section three hundred sixty-two, for total service as that term is used in section three hundred seventy-six, for total creditable service as that term is used in section three hundred eighty-four-d, and for service as that term is used in sections three hundred eighty-four-e and four hundred forty-eight. Notwithstanding any other provision of the foregoing sections or of this article to the contrary, member contributions under subdivision d of this section shall not entitle the member to any benefit pursuant to section three hundred eighty-four-d of this article greater than one-half of his final average salary after twenty years of

LIRR police service, or, in the case of a member who has more than twenty years of LIRR police service at retirement, any benefit pursuant to subdivision b of section three hundred eighty-four-e of this article for such additional years of LIRR police service not exceeding ten, or, in the case of a member who has ten or more years but less than twenty years of LIRR police service upon termination of service as a LIRR police officer, any benefit pursuant to section three hundred seventy-six of this article greater than the vested retirement allowance described in subdivision b of section three hundred seventy-six of this article.

f. Within one hundred twenty days after the effective date of this section, the sum of (a) the balance held under The Long Island Rail Road Company Money Purchase Plan for the account of all LIRR police officers who as of the effective date become members of the retirement system pursuant to section three hundred forty of this article and (b) the amount of any contributions under The Long Island Rail Road Company Pension Plan or The Long Island Rail Road Company Plan for Additional Pensions made by any such LIRR police officer, together with interest on such contributions in the same amount as interest would be credited thereto under such plans if the amount of these contributions were refunded thereunder to the member involved on the date of the transfer, shall be transferred to the pension accumulation fund of the retirement system by the LIRR and the amount so transferred other than the account balance under The Long Island Rail Road Company Money Purchase Pension Plan deriving from contributions thereunder by the LIRR shall be considered contributions for purposes of subdivision d of this section.

g. Commencing on the effective date of this section and in a manner determined by the head of the retirement system, the LIRR shall make contributions to the retirement system to fund the normal cost to the extent not funded by member contributions and the past service liability cost associated with the implementation of this section to the extent not funded by the amounts referred to in subdivision f of this section as those costs are calculated by the retirement system actuary. Such contributions to fund the past service liability shall be made in level dollar installments over a period equal to (a) the average remaining

working lifetime of the members of the twenty year plan or (b) ten years, at the election of the LIRR, by notice of such election to the retirement system together with the notice by the LIRR provided for in subdivision b of section three hundred thirty-one of this article.

** h. Notwithstanding any other provision of law, the LIRR shall pick up the member contributions required on and after the effective date of this subdivision to be made under this section by LIRR police officers and shall do so by reducing the salary of each of its employees to which this section is applicable by that amount which each such employee is required to contribute under this section. The contributions so picked up shall be paid by the LIRR in lieu of the member contributions to be paid by its employees under this section and shall be treated as employer contributions in determining income tax treatment under section four hundred fourteen (h) of the Internal Revenue Code. With the exception of federal income tax treatment, the employee contributions picked up or paid pursuant to this subdivision shall for all other purposes, including computation of retirement benefits and contributions by the LIRR and its employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

** NB Effective the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company and shall remain in full force and effect only so long as such treatment of employee contributions is authorized pursuant to the provisions of the Internal Revenue Code

* NB Effective the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company

TITLE 11

OPTIONS

Section 390. Options.

§ 390. Options. a. A member; or if he is an incompetent, his spouse or

the committee of his property; or if he is a conservatee, his spouse or the conservator of his property, may elect to receive a Single Life Allowance (a retirement allowance without optional modification) or to receive the actuarial equivalent of his retirement allowance at the time of his retirement, in the form of a smaller retirement allowance payable to him for life and one of the following optional settlements.

Cash Refund-Contributions (Option One-half). If he dies before he has received annuity payments equal to the present value of his annuity, as it was at the time of his retirement, the balance thereof shall be paid to his estate or to a beneficiary designated as provided in this section. In the event a designated beneficiary does not survive him, any balance shall be payable to the estate of the deceased retired member or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

The beneficiary so designated may elect by written designation, duly executed and filed with the comptroller, to receive the balance payable in the form of an annuity, the amount of which shall be determined as the actuarial equivalent of such balance on the basis of regular interest and the age of such beneficiary at the time of the retiree's death, or in the alternative, to receive the actuarial equivalent of such balance in the form of a reduced annuity payable for life, with the further proviso that if he should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to his estate or to such person as he shall have designated to receive same. In either case the election shall be within ninety days after the death of the retiree. The designation of the individual who is to receive such lump sum on the death of the beneficiary, may be changed by the beneficiary at any time. Such election, designation or change shall be made by a writing, duly executed and filed with the comptroller. In the event a designated beneficiary has elected to receive a balance payable in the form of a reduced annuity, and the person designated by him to receive a lump sum payment does not survive him, such lump sum, if any, shall be payable to the estate of the designated beneficiary or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

Cash Refund-Initial Value (Option One). If he dies before he has received retirement allowance payments equal to the present value of his retirement allowance, as it was at the time of his retirement, the balance thereof shall be paid to his estate or to the beneficiary so designated. In the event a designated beneficiary does not survive him, any balance shall be payable to the estate of the deceased retired member or as provided in section one thousand three hundred ten of the surrogate's court procedure act. The beneficiary so designated may elect by written designation, duly executed and filed with the comptroller, to receive the balance payable in the form of an annuity, the amount of which shall be determined as the actuarial equivalent of such balance on the basis of regular interest and the age of such beneficiary at the time of the retiree's death, or in the alternative, to receive the actuarial equivalent of such balance in the form of a reduced annuity payable for life, with the further proviso that if he should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to his estate or to such person as he shall have designated to receive same. In either case the election shall be within ninety days after the death of the retiree. The designation of the individual who is to receive such lump sum on the death of the beneficiary, may be changed by the beneficiary at any time. Such election, designation or change shall be made by a writing, duly executed and filed with the comptroller. In the event a designated beneficiary has elected to receive a balance payable in the form of a reduced annuity, and the person designated by him to receive a lump sum payment does not survive him, such lump sum, if any, shall be payable to the estate of the designated beneficiary or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

Joint Allowance-Full (Option Two). Upon his death, a retirement allowance in an amount equal to that paid to him, shall be paid for life to the beneficiary so designated.

Joint Allowance-Half (Option Three). Upon his death, a retirement allowance of one-half the amount paid to him shall be paid for life to

the beneficiary so designated.

Actuarial Equivalent Allowance (Option Four). Such other optional benefit or benefits as the comptroller shall approve and which shall be the actuarial equivalent of his retirement allowance at the time of his retirement.

aa. In the event that the monthly retirement allowance payable to a member or a beneficiary shall amount to less than twenty-five dollars, then and in such event, the member or beneficiary may elect, in lieu of such monthly retirement allowance, to receive the actuarial equivalent thereof in a lump sum.

b. All elections under this section shall be made on blanks prepared by the comptroller for that purpose. Any such election may be made at any time before the first payment on account of any benefit becomes normally due, except that in the case of retirement on account of disability, such an election may be made within thirty days after mailing by the comptroller of notification of approval of retirement on account of disability.

An optional election shall not become effective if the member dies before the effective date of his retirement. Provided, however, if a member who is otherwise eligible for disability retirement pursuant to this chapter dies after the filing in the office of the comptroller of the application for disability retirement and a valid option election form pursuant to this chapter and it is established that the physical or mental impairment or incapacitation of the applicant specified in such application was directly related to the cause of the applicant's death, such application shall be approved by the comptroller effective one day before the date of the applicant's death. An election of an option may be withdrawn or a new option may be chosen within the period provided in this subdivision b for the making of such an election. Except as provided in subdivision b of section three hundred seventy of this article, where an optional election does not become effective, retirement shall be without option.

bb. 1. Notwithstanding any other provision of this section or of section three hundred seventy of this article, the comptroller, for reasonable cause, shall have power, to extend the time for the election of an option, for a period or periods which shall expire not later than sixty days immediately after the effective date of a member's retirement.

2. Notwithstanding any other provision of this section, but except where payment of accumulated contributions, an ordinary death benefit, or both, is or are required pursuant to subdivision dd of section three hundred fifty-one of this article or subdivision aa of section three hundred sixty of this article, retirement shall be on the basis of "Option One-half" unless the member files an effective election pursuant to this section to retire on a different basis. The provisions of this paragraph two shall apply to cases where retirement shall become effective on or after April first, nineteen hundred sixty-seven.

c. A member, or person authorized by this section to make an election in his behalf, may designate his beneficiary under any of the options herein provided. Each such designation shall be:

1. Made in writing on a blank provided by the comptroller for such purposes, and

2. Ineffective until it is filed in the comptroller's office, and

3. Revocable to the extent that:

(a) A new beneficiary under a "Cash Refund-Contributions" option (Option One-half), or a "Cash Refund-Initial Value" option (Option One) may be designated at any time during the member's life.

(b) A new beneficiary under any other option may be designated at any time within the period provided for the making of an election pursuant to this section.

d. In the event of the death of a retired member, the installment of his retirement allowance, which would have become due and payable next following his death, shall be pro-rated as of the date of his death. The

amount of such installment, as so pro-rated, shall be paid as follows:

1. If the member shall have:

(a) Elected to receive an optional benefit pursuant to this section, and

(b) Designated a beneficiary pursuant to this section, such amount shall be paid to such beneficiary, if such beneficiary survives him. In any other case such amount shall be paid to the retired member's estate or pursuant to section one thousand three hundred ten of the surrogate's court procedure act.

2. If the member shall not have elected to receive an optional benefit, such amount shall be paid to the beneficiary designated by him pursuant to subdivision d of section three hundred fifty-one of this article. In the event the appropriately designated beneficiary does not survive such member, or if he shall not have so designated a beneficiary, such amount shall be payable to the retired member's estate or pursuant to section one thousand three hundred ten of the surrogate's court procedure act.

e. Notwithstanding any other provision of this article, an option selection previously filed by a member or retired member subject to the provisions of this section may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever is later.

TITLE 12

PROVISIONS RELATING TO RETIRED MEMBERS

Section 400. Payment of retirement allowances.

401. Reduction or suspension of benefits.

402. Recovery of disability beneficiaries.

§ 400. Payment of retirement allowances. Retirement allowances shall be payable on the first day of each and every month beginning on the first day of the month following the effective date of retirement. Upon the death of a retired member, however, the retirement allowance due for that part of the month prior to his death shall be paid forthwith.

§ 401. Reduction or suspension of benefits. a. If a retired member, receiving a retirement allowance for other than physical disability, returns to active public service, except as otherwise provided in this section or sections two hundred eleven or two hundred twelve of this chapter, and is eligible for membership in the police and fire retirement system, he or she thereupon shall become a member and his or her retirement allowance shall cease. In such event, he or she shall contribute to the police and fire retirement system as if he or she were a new member. Upon his subsequent retirement he or she shall:

1. Be credited with all member service earned by him or her since he or she last became a member of the police and fire retirement system, and

2. Received a retirement allowance which shall consist of:

- (a) An annuity which is the actuarial equivalent of all his or her accumulated contributions, and

- (b) The pension including the pension-providing-for-increased-take-home-pay which he or she was receiving immediately prior to his or her last restoration to membership, plus a pension including the pension-providing-for-increased-take-home-pay based upon the member service credit earned by him or her since he or she last became a member. Such latter pensions shall be computed as if he or she were a new member when he or she last became a member.

Where such member shall have earned at least two years of member service credit after restoration to active service, the total service credit to which he or she was entitled at the time of his or her earlier

retirement may, at his or her option, again be credited to him or her and upon his or her subsequent retirement he or she shall be credited in addition with all member service earned by him or her subsequent to his or her last restoration to membership. Such total service credit to which he or she was entitled at the time of his or her earlier retirement shall be so credited only in the event that such member returns to the police and fire retirement system with regular interest the actuarial equivalent of the amount of the retirement allowance he or she received, or in the event that such amount is not so repaid the actuarial equivalent thereof shall be deducted from his or her subsequent retirement allowance.

Notwithstanding the foregoing provisions of this subdivision, a retired member who is receiving a retirement allowance for other than physical disability, and who returns to active public service, may elect not to be restored to membership in the police and fire retirement system until he or she has rendered one year of service following his or her return to public service. In such event his or her retirement allowance shall be suspended during such year of service as provided in subdivision b of this section. Upon restoration to membership following completion of such year of service, his or her service in such year shall be deemed to be service while a member for purposes of subdivision b of section three hundred sixty of this chapter. He or she may purchase member service credit for such year, which shall be deemed earned member service credit. This paragraph shall not be construed to authorize the return to public service of any person who is otherwise not eligible therefor on account of having reached age seventy.

If a retired member receiving a retirement allowance for other than physical disability, returns to active public service, and is then ineligible for membership in the police and fire retirement system, his or her retirement allowance shall be suspended in the same manner as provided in subdivision b of this section.

b. Temporary service.

1. The payment of any retirement allowance, or any benefit in lieu

thereof, on account of retirement for other than physical disability shall be suspended as provided herein, during the time that the beneficiary thereof is in receipt of other compensation paid from direct or indirect state or municipal taxes:

(a) For temporary government or temporary public service other than jury duty, or

(b) For service pursuant to subdivision c of this section where the retired member continues as a beneficiary of the police and fire retirement system.

2. In the case of a retirement allowance, without option, the amount of the pension portion, including the pension-providing-for-increased-take-home-pay, suspended for any period shall be equal to the amount of such other compensation for the same period.

3. In the case where an optional benefit in lieu of a retirement allowance without option shall have been selected, the pension portion thereof, including the pension-providing-for-increase-take-home-pay, shall be suspended in such manner as the comptroller shall approve. The amount so suspended shall be equal to the actuarial equivalent of the amount by which the pension portion of the retirement allowance, including the pension-providing-for-increased-take-home-pay, as it would be without option, would be suspended pursuant to paragraph two of this subdivision b. The retired member, however, may pay to the fund or funds from which the pension portion of his retirement allowance, including the pension-providing-for-increased-take-home-pay, is payable the difference between the suspended portion thereof, without option, and the suspended portion of the optional pension portion of the retirement allowance, including the pension-providing-for-increased-take-home-pay, granted to him. In such event any payments to his beneficiary shall be made as if no suspension occurred.

4. In the case of a member whose compensation for public service is equal to or greater than his final salary as defined herein, the annuity portion of his retirement allowance shall be suspended during the period that he is receiving such compensation. In the case of a member whose

compensation for public service is less than his final salary as defined herein and who has retired without option, he shall be entitled to receive that portion of his annuity computed without option which, when added to his compensation for public service, does not exceed the aforesaid final salary. Where an optional benefit has been selected in lieu of a retirement allowance without option, the amount of the annuity suspended shall be the actuarial equivalent of the amount that would have been suspended if the retirement allowance had been without option. In such a case the retired member may pay to the fund or funds, from which the annuity portion of his retirement allowance is payable, the difference between that portion of the annuity which is actually suspended, in accordance with the provisions of this paragraph, and the corresponding portion of the annuity without option.

In such even any payments to his beneficiary shall be made as if no suspension occurred. The term "final salary", as used in this paragraph, shall mean the maximum salary or compensation which the retired member currently would be receiving in the position from which he last retired, if he had not so retired. If the position from which he was so retired has been abolished the comptroller, upon the basis of salary or compensation currently paid in similar or comparable positions, shall determine the maximum amount of salary or compensation which the retired member currently would be receiving in the abolished position.

The provisions of this subdivision c shall be controlling notwithstanding any other provision of this chapter.

c. Election or appointment of retired members to certain public offices.

1. A retired member, unless otherwise disqualified, shall be eligible to:

- (a) Election to a state office, or
- (b) Appointment to fill a vacancy in an elective state office.

2. In the event a retired member is so elected, except a retired member so elected and who is receiving less than ten thousand dollars in

retirement allowance or benefit payments in any one year, or appointed or so qualifies, he may:

(a) Upon written notice to the comptroller, receive from the police and fire retirement system the then present value of the annuity earned by his or her accumulated contributions, and upon receipt thereof cease to be a beneficiary of the police and fire retirement system, or

(b) Continue as a beneficiary of the police and fire retirement system, but with payments of any retirement allowance or any benefit in lieu thereof, on account of retirement for other than physical disability, suspended during the time he or she is in receipt of compensation for state or public service. Such suspension shall be governed by the provisions of paragraphs two, three and four of subdivision b of this section.

3. The provisions of subdivision one of section one hundred fifty of the civil service law shall govern with respect to state and local elective public officers.

d. Privilege of certain retired members, retired for other than physical disability, to undertake public employment.

1. Notwithstanding any inconsistent provisions of this section or of section one hundred fifty of the civil service law the provisions of this section shall be suspended to the extent necessary to permit a retired member to continue as such and to earn not to exceed eighteen hundred dollars per calendar year as compensation in any position of a temporary, seasonal or occasional nature in government service or public service, provided he duly executes and files with the comptroller a statement that he elects to have the provisions of this subdivision f apply to him, and:

(a) His retirement allowance, computed without optional modification, does not exceed thirty-five hundred dollars per year, or

(b) His retirement allowance, computed without optional modification, exceeds thirty-five hundred dollars per year and he annually waives that portion which is in excess of thirty-five hundred dollars by duly executing and filing with the comptroller a waiver of the aforesaid excess portion. The waiver shall be irrevocable during the calendar year

in which it is filed.

A statement of election executed and filed pursuant to this subdivision f may be withdrawn by a retired member at any time by a statement similarly executed and filed.

2. The privilege granted by this subdivision f, to retired members to continue as such and to earn compensation in positions of a temporary, seasonal or occasional nature in government service or public service shall remain in full force and effect until July first, nineteen hundred sixty-five.

§ 402. Recovery of disability beneficiaries. a. Once each year the comptroller may, and, upon his application, shall require a retiree on a disability allowance, under the minimum age or period for service retirement elected by him, to undergo a medical examination. Such examination shall be made at the place of residence of such beneficiary, or at any other place mutually agreed upon by the comptroller and such beneficiary. In the event that any such disability beneficiary shall refuse to submit to a medical examination, the pension portion of his retirement allowance, including the pension-providing-for-increased-take-home-pay, shall be discontinued until his withdrawal of such refusal. If such refusal shall continue for one year, all his rights in and to his pension shall be forfeited.

b. The pension, including the pension-providing-for-increased-take-home-pay, of a disability beneficiary shall be reduced in the event that any such disability beneficiary is engaged in a gainful occupation paying more than the difference between his retirement allowance, as it would be without optional modification and if not reduced by the actuarial equivalent of any outstanding loan and if not increased by the actuarial equivalent of any additional contributions, and his final salary. Such reductions shall be to a sum which, when added to an annuity, as so computed, plus the amount so earnable by him, shall equal his final salary. If his earning capacity thereafter changes, his pension may be further altered. Any such altered pension shall not exceed:

1. The pension, including the pension-providing-for-increased-take-home-pay, originally granted to such beneficiary, nor

2. An amount which, when added to an annuity, as so computed, plus the sum earned by him or her, shall equal his or her final salary.

In the case where an optional benefit has been selected, such reduction shall be the same as the reduction would have been without optional modification. Where such reduction is greater than the pension, including the pension-providing-for-increased-take-home-pay, payable under the option selected, the excess may be paid by the pensioner into the funds of the police and fire retirement system, in which case the benefit due under the option shall be paid as if no reduction had occurred. If such excess is not paid by the pensioner, the benefit otherwise due under the option shall be reduced by the actuarial equivalent of such excess. In no event shall the payment to the funds be greater than the difference between the pension, including the pension-providing-for-increased-take-home-pay, without optional modification and the pension, including the pension-providing-for-increased-take-home-pay, under the option selected. The pension, including the pension-providing-for-increased-take-home-pay of a disability pensioner, shall not be reduced after he or she has attained the mandatory retirement age applicable to him or her or shall have attained the age or performed the period of service specified by applicable law for eligibility for a service retirement benefit.

c. In the event that the comptroller shall determine that a disability beneficiary is able to engage in a gainful occupation, he or she shall, if such beneficiary so requires, certify the name of such beneficiary to the state civil service department or appropriate civil service commission. The state civil service department or such municipal commission shall place the name of such beneficiary, as a preferred eligible, on the appropriate eligible lists prepared by it for positions for which such beneficiary is stated to be qualified in a salary grade

not exceeding that from which he or she was last retired. If any such beneficiary shall be offered a position as a result of the placing of his or her name on any such civil service list, the amount of his or her disability pension, including the pension-providing-for-increased-take-home-pay, shall be reduced. Such reduction shall be to an amount which, when added to the amount earned or earnable by him or her in such position, shall not exceed his or her final salary. A disability beneficiary restored to active service shall not be eligible to membership in the police and fire retirement system so long as he or she receives any pension, including the pension-providing-for-increased-take-home-pay.

d. In the event that a disability beneficiary is restored to active service of an employer, at a salary equal to or in excess of his or her final salary, his or her retirement allowance shall cease. Such person thereupon again shall become a member of the police and fire retirement system. He or she thereafter shall contribute to the police and fire retirement system in the same manner as and at the same rate that he or she paid prior to his or her disability retirement. The total service credit, to which he or she was entitled at the time of such retirement, again shall be credited to him or her. Upon his or her subsequent retirement, he or she shall be credited, in addition, with all member service earned by him or her subsequent to his or her last restoration to membership.

e. In the event that a disability retiree is restored to active service of an employer, at a salary less than his or her final salary but equal to or in excess of the current minimum salary for the position from which he or she was last retired for disability, such person, if he or she so elects, shall again become a member of the police and fire retirement system and his or her retirement allowance shall cease. He or she thereafter shall contribute to the police and fire retirement system in the same manner as and at the same rate that he or she paid prior to his or her disability retirement. The total service credit, to which he or she was entitled at the time of such retirement, again shall be credited to him or her. Upon his subsequent retirement, he or she shall be credited, in addition, with all member service earned by him or her

subsequent to his or her last restoration to membership.

f. In the case of members who have changed plans prior to the effective date of this subdivision, the plan providing the earliest minimum age or period of service shall be applied.

f-1. Notwithstanding any other provision of this section or any other provision of law, a retiree of any New York state police or fire retirement system on a disability allowance who returns to gainful employment as an elected public official shall continue to receive the full amount of his or her retirement allowance, including the pension-providing-for-increased-take-home-pay.

g. Notwithstanding any other provision of this article, the term "final salary", as used in this section, shall mean the maximum salary or compensation which the retired member currently would be receiving in the position next higher from which he was last retired for disability, if he had not been so retired, provided, however, that if the position from which he was so retired has been abolished, the comptroller, upon the basis of salary or compensation currently paid by the retired member's last employer to persons in similar or comparable positions, shall determine, for the purposes of this section, the maximum amount of salary or compensation which such retired member currently would be receiving in such position.

TITLE 13

MISCELLANEOUS PROVISIONS; SAVING AND CONSTRUCTION CLAUSES

Section 409. Abandonment of unclaimed contributions; payment to the pension accumulation fund.

409-a. Abandonment of amounts payable to beneficiaries; payment to the pension accumulation fund.

410. Exemption from taxes and legal process.

410-a. Deduction of group plan insurance or medicare premiums from benefits.

410-b. Deduction of dues and insurance premiums from benefits of certain retired members of the division of state

police.

- 410-c. Deduction of dues and insurance premiums from benefits of certain retired members enrolled in the New York state and local police and fire retirement system.
- 411. Protection against fraud.
- 412. Bonds required in certain cases.
- 413. Limitation of other statutes.
- 414. Construction.
- 415. Application of provisions of article two of the retirement and social security law.
- 416. Separability clause.
- 417. Preservation of rights of certain members.
- 418. Additional benefit authorized with respect to the city of Yonkers.

§ 409. Abandonment of unclaimed contributions; payment to the pension accumulation fund. a. After at least five years have elapsed since the separation from service of a member who has not vested, for any cause other than death or retirement, the comptroller shall send a statement to such person at his last known address setting forth the amount of the accumulated contributions standing to his credit in the annuity savings fund and give notice to said person that unless he demands payment of said amount prior to a date at least one year from the date the notice is given, said accumulated contributions remaining in the annuity savings fund will be deemed abandoned and will be transferred to the pension accumulation fund.

b. After the expiration of at least one year from the date the notice is given, the comptroller shall publish in the state bulletin a list setting forth the names of persons who have unclaimed accumulated contributions in the retirement system. At the expiration of six months from the date of the publication of such list the accumulated contributions of the persons so listed shall be deemed abandoned and shall be placed in the pension accumulation fund to be used for the purposes of said fund.

c. Any accumulated contributions so deemed abandoned and transferred to the pension accumulation fund may be claimed by the person who made such accumulated contributions, or in the event of his death by his estate or by such person or persons as he shall have nominated to receive such accumulated contributions, by filing a claim with the comptroller in such form and in such manner as may be prescribed by the comptroller, seeking the return of such abandoned accumulated contributions. In the event such claim is properly made the comptroller shall pay over to the person or persons or estate making such claim the amount of such accumulated contributions without interest. The payment shall be made from the pension accumulation fund.

§ 409-a. Abandonment of amounts payable to beneficiaries; payment to the pension accumulation fund. a. After at least one year has elapsed since a benefit has become payable to the beneficiary or estate of a retiree or member and such beneficiary or estate has failed to apply for and receive such benefit, the comptroller shall send a statement to the executor or administrator of the estate or to the designated beneficiary at his last known address setting forth the benefit payable and giving notice to such person or persons that unless demand for payment of such benefit is made prior to a date at least eighteen months from the date the notice is given, said benefit will be deemed abandoned and will be transferred to the pension accumulation fund.

b. After the expiration of at least one year from the date the notice is given, the comptroller shall publish in the state bulletin a list setting forth the names of estates or beneficiaries having an unclaimed amount in the retirement system. At the expiration of six months from the date of publication of such list the amounts so listed unless previously paid to claimant shall be deemed abandoned and shall be placed in the pension accumulation fund to be used for the purpose of said fund.

c. Any amounts so deemed abandoned and transferred to the pension accumulation fund may be claimed by the executor or administrator of the estate or beneficiaries designated to receive such amount, by filing a

claim with the comptroller on such form and in such manner as be prescribed by the comptroller. In the event such claim is properly made the comptroller shall pay over to the estate or to the person or persons making such claim the amount without interest. The payment shall be made from the pension accumulation fund.

§ 410. Exemption from taxes and legal process. The right of a person to a pension, a pension-providing-for-increased-take-home-pay, an annuity or a retirement allowance, to the return of contributions, the pensions, the pension-providing-for-increased-take-home-pay, annuity, or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter and the monies in the various funds continued under this chapter:

1. Are hereby exempt from any state or municipal tax, except the estate tax, and

2. Shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and

3. Shall be unassignable, except as in this chapter specifically provided.

§ 410-a. Deduction of group plan insurance or medicare premiums from benefits. Notwithstanding anything to the contrary contained in section four hundred ten of this act, the comptroller is hereby authorized to deduct from the retirement allowance of any retired member, such amount as the retired member may specify in writing filed with the comptroller for the payment of any insurance premiums written on the group plan, covering only such insurance in which the employer as defined in section three hundred two of this article contributes, and to transmit the sums so deducted to the company carrying such insurance or its authorized representative. The comptroller is further authorized to deduct from the retirement allowance of any retired member such amount as the retired member may specify in writing filed with the comptroller for the payment

of any insurance premiums due for medicare, and to transmit the sums so deducted to the agency for the federal government authorized to administer the medicare program. Any such written authorization may be withdrawn by such retired member at any time upon filing notice of such withdrawal with the comptroller.

§ 410-b. Deduction of dues and insurance premiums from benefits of certain retired members of the division of state police.

Notwithstanding any other provision of law to the contrary, the comptroller is hereby authorized to deduct from the retirement allowance of any retired member of the division of state police an amount of membership dues as the retired member may specify in writing filed with the comptroller for the payment of such employee organization membership dues and premiums for employee organizations sponsored group insurance plans. Any such written authorization may be withdrawn by such retired member at any time upon filing written notice of such withdrawal with the comptroller. Notwithstanding the foregoing provisions of this section, the employee organization certified, pursuant to article fourteen of the civil service law, to represent the collective negotiating unit from which the member retired, shall have exclusive payroll deduction of membership dues and premiums for insurance and mass-merchandised automobile and homeowners' insurance policies for retired members of such collective negotiating unit. Deductions for such dues and premiums shall not be authorized for any other employee organization or group except by express written approval of such appropriate certified employee organization.

§ 410-c. Deduction of dues and insurance premiums from benefits of certain retired members enrolled in the New York state and local police and fire retirement system. Notwithstanding any other provision of law to the contrary, the comptroller is hereby authorized to deduct from the retirement allowance of any retired member enrolled in the New York state and local police and fire retirement system an amount of membership dues as the retired member may specify in writing filed with the comptroller for the payment of such employee organization membership

dues and premiums for employee organizations sponsored group insurance plans. Any such written authorization may be withdrawn by such retired member at any time upon filing written notice of such withdrawal with the comptroller. Notwithstanding the foregoing provisions of this section, the employee organization certified, pursuant to article fourteen of the civil service law, to represent the collective negotiating unit from which the member retired, shall have exclusive payroll deduction of membership dues and premiums for insurance and mass-merchandised automobile and homeowners' insurance policies for retired members of such collective negotiating unit. Deductions for such dues and premiums shall not be authorized for any other employee organization or group except by express written approval of such appropriate certified employee organization.

§ 411. Protection against fraud. a. Any person who shall:

1. Knowingly make any false statement, or

2. Falsify or permit to be falsified any record of the New York state and local police and fire retirement system, in any attempt to defraud such system as the result of such act shall be guilty of a misdemeanor.

b. Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of one thousand dollars more than he or she would have been entitled to shall be a class E felony. Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of three thousand dollars more than he or she would have been entitled to shall be a class D felony.

c. In the event that any change or error in any record of the New York state and local police and fire retirement system causes a member or beneficiary of such system to receive more or less than he would have been entitled to receive had such record been correct, the comptroller, upon the discovery of any such change or error, shall correct such

record. As far as practicable, the comptroller shall adjust payments in such a manner that the actuarial equivalent of any benefit rightly due shall be paid.

§ 412. Bonds required in certain cases. a. In any case where, by order of a court of competent jurisdiction, the police and fire retirement system is required to pay over a benefit which is payable in installments and which is predicated upon the life of a beneficiary, to a payee other than the recipient who ordinarily would have taken the benefit pursuant to the provisions of this article, such payee must file a bond. The bond shall be in favor of the comptroller as administrative head of the police and fire retirement system and shall indemnify him against loss by reason of excess payment, to such payee, after benefits have ceased to become payable for any reason whatsoever.

The amounts of the bond shall be fixed by the court in a sum not less than the total amount such payee is expected to take for a period of two years. The bond with at least two sureties must be approved by the court. It must be filed with the clerk of the court and a certified copy thereof served upon the comptroller. Before the bond shall be approved there shall be filed in the court by every surety an acknowledged instrument wherein the surety designates the clerk of the court and his successors in office as a person upon whom service of any process issuing from the court may be made in like manner and with like effect as if served personally upon the surety, whenever such surety after the exercise of due diligence cannot be found and served within the state of New York.

Insofar as they are consistent with this article, the provisions of law relating to bonds and undertakings in a civil action in the supreme court shall apply to bonds required by this subdivision.

b. Notwithstanding any provisions to the contrary in subdivision a of this section, if the retirement system is required to pay over a benefit which is payable in installments and which is predicated upon the life of a beneficiary, to a payee other than the recipient who ordinarily

would have taken the benefit pursuant to the provisions of this chapter, such payee shall not be required to file a bond or any other undertaking where such payment is required by order of a court of competent jurisdiction as the result of an action or proceeding for equitable distribution, alimony, maintenance or child support pursuant to article three-A or thirteen of the domestic relations law, article four of the family court act, title six-A or six-B of article three of the social services law, section fifty-two hundred forty-two of the civil practice law and rules, or by an income execution issued pursuant to section fifty-two hundred forty-one of the civil practice law and rules.

Upon the payment of such benefit, the retirement system shall be relieved and held harmless from any and all liability for any claim of excess payment which exists at the time with reference to such benefit or may thereafter be made on account of such benefit.

§ 413. Limitation of other statutes. a. No other provision of law in any other statute which provides wholly or partly at the expense of the state or of a participating employer for pensions, retirement benefits, emoluments or awards for employees in police or fire service, their widows or widowers or other dependents, shall apply to members or beneficiaries of the police and fire retirement system established by this article, their widows, widowers or other dependents.

b. This article shall not:

1. Prevent a person whose salary is paid from two or more sources, each entitling him to membership in a retirement system, from being a member in all such systems, or

2. Supersede or make inoperative the provisions of section two hundred twenty-seven of the executive law in so far as they apply to an officer or employee in the division of state police of the executive department who is a member of the retirement system.

3. Prevent the extension of old-age and survivors insurance coverage

to members of the police and fire retirement system or the receipt of benefits therefrom by such members, their wives or husbands or widows or widowers or their other dependents.

4. Prevent a member of the police and fire retirement system whose membership is authorized by paragraph nine of subdivision c of section three hundred forty of this article, from receiving, upon his or her subsequent retirement from the police and fire retirement system, benefits based on service not included in that upon which his or her retirement or pension from another pension or retirement system is or would be based.

5. Prevent payment of a survivor's benefit, pursuant to section one hundred fifty-four of the civil service law, on account of the death of a member of the retirement system.

c. The provisions of this article shall be operative, notwithstanding any contrary provision of law.

§ 414. Construction. a. An act of the legislature of the year nineteen hundred sixty-six or nineteen hundred sixty-seven which, in form, amends or repeals or purports to amend or repeal any provision or provisions of article two of this chapter, as in force and effect immediately prior to April first, nineteen hundred sixty-seven, shall be deemed and construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of this article.

b. An act of the legislature of the year nineteen hundred sixty-six or nineteen hundred sixty-seven which adds, or purports to add a new section, subdivision or other provision of law to article two of this chapter, as in force immediately prior to April first, nineteen hundred sixty-seven, shall, except to the extent that the provisions of such act are inconsistent with the provisions of this article, be deemed and construed as having been added to this article and shall be given full effect according to its context as if the same had been added expressly and in terms to this article, and shall be deemed and construed to have

been inserted in this article in the appropriate position in regard to and as modifying the effect of the corresponding provision or provisions of this article.

§ 415. Application of provisions of article two of the retirement and social security law. All the powers and duties conferred or imposed upon the comptroller by article two of this chapter, which are necessary for the administration of this article and not inconsistent with this article, are to that extent made applicable to this article even though such provisions are not expressly made applicable to this article by the provisions of this article.

§ 416. Separability clause. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 417. Preservation of rights of certain members. Notwithstanding the repeal by this chapter of sections eighty-one, eighty-one-a, eighty-two, eighty-three, eighty-three-a, eighty-four, eighty-four-a (such sections eighty-four-a having been separately added by chapters five hundred sixty-five and five hundred sixty-six of the laws of nineteen hundred sixty-five), eighty-five, eighty-five-a, eighty-six, eighty-seven and eighty-eight of article two of this chapter, as amended, the rights, privileges and immunities of persons who are members of the state employees' retirement system pursuant to such sections and who are transferred to the retirement system established by this article, on the effective date thereof, shall not be affected or impaired, but the same may be enjoyed, asserted or enforced as fully and to the same extent as if such sections had not been so repealed.

§ 418. Additional benefit authorized with respect to the city of Yonkers. Notwithstanding any contrary provision of law, the city of Yonkers may by local law, ordinance or resolution, provide a benefit of two hundred fifty dollars a month to the widow or widower, and members of the family, of retired Yonkers' police officers and firefighters who were members of the New York state and local police and fire retirement system at the time of their death; provided, however, the benefit may be paid only to survivors who were receiving benefits pursuant to Local Laws seven and eight of the city of Yonkers for the year of nineteen hundred sixty-eight on or before the effective date of this section.

ARTICLE 9

COMMON RETIREMENT FUND

- Section 420. Short title.
421. Definitions.
422. Establishment of a common retirement fund.
423. Investments.
- 423-a. Northern Ireland related investments.
- 423-b. New York state venture capital program.
- 423-c. MWBE asset management and financial institution strategy.
424. Distribution of earnings.
- 424-a. Use of placement agents or intermediaries prohibited.
425. Separability of retirement systems.

§ 420. Short title. This act may be cited as the "common retirement fund" act.

§ 421. Definitions. As used or referred to in this article, unless a different meaning clearly appears from the context. 1. The term "employees' retirement system" shall mean the New York state employees retirement system.

2. The term "police and fire retirement system" shall mean the New

York state and local police and fire retirement system.

3. The term "each retirement sytsem" shall mean each of the foregoing defined systems.

4. The term "comptroller" shall mean the state comptroller.

5. The term "actuary" shall mean the actuary of the employees' retirement system acting jointly with the actuary of the police and fire retirement system.

§ 422. Establishment of a common retirement fund. 1. There is hereby established a fund, in the custody of the comptroller, to be known as the common retirement fund. Notwithstanding any other provision of this chapter, all of the assets and income of the employees' retirement system and of the police and fire retirement system shall be held by the comptroller as trustee of such fund, except as such assets and income may be allocated or distributed to the funds of each retirement system by the comptroller.

2. The fund shall consist initially of the total assets of the employees' retirement system as of March thirty-first, nineteen hundred sixty-seven, as such assets are defined in subdivision a of section two hundred ninety-three of this chapter. After the annual valuation of the assets and liabilities of the employees' retirement system and the determination relating to assets and liabilities required by subdivision b of section two hundred ninety-three of this chapter, the comptroller shall credit to each retirement system a participating interest in the assets of such fund in the proportion and percentage that the assets of each retirement system bear to the total assets of the common retirement fund. On March thirty-first, nineteen hundred sixty-eight, and at the close of each succeeding fiscal year, the comptroller shall credit each retirement system with a participating interest in such fund in the proportion and percentage that the interest attributable to each retirement system bears to the total assets of such fund, after considering contributions, earnings, disbursements and expenses

attributable to each system.

§ 423. Investments. a. On and after April first, nineteen hundred sixty-seven, the comptroller shall invest the available monies of the common retirement fund in any investments and securities authorized by law for each retirement system and shall hold such investments in his name as trustee of such fund, notwithstanding any other provision of this chapter. Participating interests in such investments shall be credited to each retirement system in the manner and at the time specified in paragraph two of section four hundred twenty-two of this article.

b. To assist in the management of the monies of the common retirement fund, the comptroller shall appoint an investment advisory committee consisting of not less than seven members who shall serve for his term of office. A vacancy occurring from any cause other than expiration of term shall be filled by the comptroller for the remainder of the term. Each member of the committee shall be experienced in the field of investments and shall have served, or shall be serving, as a senior officer or member of the board of an insurance company, banking corporation or other financial or investment organization authorized to do business in the state of New York. The committee shall advise the comptroller on investment policies relating to the monies of the common retirement fund and shall review, from time to time, the investment portfolio of the fund and make such recommendations as may be deemed necessary.

The comptroller shall appoint a separate mortgage advisory committee, with the advice and consent of the investment advisory committee, to review proposed mortgage and real estate investments by the common retirement fund. In making investments, as authorized by law, the comptroller shall be guided by policies established by each committee from time to time; and, in the event the mortgage advisory committee disapproves a proposed mortgage or real estate investment, such shall not be made.

No officer or employee of any state department or agency shall be eligible for membership on either committee. Each committee shall convene periodically on call of the comptroller, or on call of the chairman. The members of each committee shall be entitled to reimbursement for their actual and necessary expenses but shall receive no compensation for their services.

§ 423-a. Northern Ireland related investments. 1. Notwithstanding any other provision of law, on and after January first, nineteen hundred eighty-seven, any moneys or assets of the common retirement fund which shall remain or be invested in the stocks, securities or other obligations of any institution or company doing business in or with Northern Ireland or with agencies or instrumentalities thereof, shall be invested subject to the provisions of subdivision three of this section.

2. On or before the first day of January of each year, the comptroller shall determine the existence of affirmative action taken by institutions or companies doing business in Northern Ireland to eliminate ethnic or religious discrimination based on actions taken for:

(a) Increasing the representation of individuals from underrepresented religious groups in the workforce including managerial, supervisory, administrative, clerical and technical jobs.

(b) Providing adequate security for the protection of minority employees both at the workplace and while travelling to and from work.

(c) The banning of provocative religious or political emblems from the workplace.

(d) Publicly advertising all job openings and making special recruitment efforts to attract applicants from underrepresented religious groups.

(e) Providing that layoff, recall, and termination procedures should not in practice favor particular religious groupings.

(f) The abolition of job reservations, apprenticeship restrictions, and differential employment criteria, which discriminate on the basis of religion or ethnic origin.

(g) The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the

expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

(h) The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancement.

(i) The appointment of senior management staff members to oversee affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

3. Consistent with sound investment policy, the comptroller shall invest the assets of the common retirement fund in such a manner that the investments in institutions doing business in or with Northern Ireland shall reflect the advances made by such institutions in eliminating discrimination as established pursuant to subdivision two of this section.

§ 423-b. New York state venture capital program. The comptroller is hereby authorized to establish within the common retirement fund a New York state venture capital program for the purpose of investing in qualified businesses as defined in paragraph six of subdivision (a) of section eleven of the tax law. The comptroller is authorized to invest up to two hundred fifty million dollars of assets of the common retirement fund to carry out the purposes of this section. The comptroller may make investments pursuant to this section in partnerships, corporations, trusts or limited liability companies organized on a for-profit basis that enter into agreements to invest the moneys of the New York state venture capital program in qualified businesses. The comptroller shall make such investments consistent with the provisions of paragraph (b) of subdivision nine of section one hundred seventy-seven of this chapter. The comptroller may establish procedures necessary to insure that investments of moneys of the New York state venture capital program are, for each investment in a qualified business, equitably matched by investments made by other sources. The comptroller shall, to the maximum extent practicable, insure that the geographic distribution of investments in the program is in proportion to the state population.

§ 423-c. MWBE asset management and financial institution strategy. 1.

Within the discretion of the state comptroller and in accordance with and subject to his or her fiduciary duties and obligations as trustee of the common retirement fund and to the members, retirees and beneficiaries of such fund and such other investment limitations as may be prescribed by this chapter, the comptroller is authorized to establish an MWBE asset management and financial institution strategy including reasonable goals for utilization of MWBE asset managers, MWBE financial institutions and MWBE financial and professional service firms, which strategy shall include, but shall not be limited to, the following objectives:

(a) investing assets of the common retirement fund with MWBE asset managers;

(b) subject to best execution: (i) conducting trades of public equity securities with MWBE financial institutions; and (ii) conducting trades of fixed-income securities through MWBE financial institutions;

(c) allocating investments of assets of the common retirement fund either through: (i) direct investments in the equities and debt securities of MWBEs; or (ii) indirectly through special programs involving MWBE asset managers; and

(d) awarding contracts for accounting, banking, financial advisory, insurance, legal, research, valuation and other financial and professional services to MWBE financial institutions and other MWBE professional service firms.

2. The comptroller is also authorized to: (a) periodically advertise the existence of the strategy established in this section so that MWBE asset managers, MWBE financial institutions and other MWBE professional service firms are made aware of the opportunities made available pursuant to such strategy;

(b) within sixty days of the end of each fiscal year following the effective date of this section, the state comptroller shall report to the governor, legislature and the chief diversity officer of the state of New York on the participation of MWBE asset managers, MWBE financial institutions and MWBE professional service providers in investment and brokerage transactions with or as providers of services for the common

retirement fund, including a comparative analysis of such activity relative to such activity with all asset managers, financial institutions and professional service providers for the relevant period and on the progress and success of the efforts undertaken during such period to achieve the goals of such strategy. Each report shall be simultaneously published on the website of the common retirement fund for not less than sixty days following its release to the governor and the other recipients named above;

(c) work with the other fiduciary-controlled entities to create a database of such MWBE entities; and

(d) periodically, but not less than annually, hold a conference to promote such strategy in conjunction with the other fiduciary-controlled entities.

3. (a) The state comptroller shall establish and adopt a certification process and guidelines for the sole purpose of identification and reporting on MWBE firms providing asset management, brokerage, or other financial or professional services as such term is defined in subdivision six of section one hundred seventy-six of this chapter. Such certification shall differentiate and the comptroller shall maintain separate categories for MWBE asset managers meeting the criteria of subparagraph (i) of paragraph (a) of subdivision six of section one hundred seventy-six of this chapter and MWBE asset managers meeting the criteria of subparagraph (ii) of paragraph (a) of such subdivision.

(b) Such certification process shall include, but need not be limited to, a request for the following information relating to each managing principal, principal, operating principal, chief financial officer, operating vice-president, vice-president, partner, owner and employee associated with a prospective MWBE entity:

- (i) title;
- (ii) position;
- (iii) ownership percentage;
- (iv) ethnicity;
- (v) gender; and
- (vi) length of service.

§ 424. Distribution of earnings. At the close of each fiscal year, the average rate of investment earnings of the common retirement fund shall be computed by the actuary and certified to the comptroller. This rate shall be determined from the investment earnings during the calendar year, which ended three months prior to the close of the fiscal year. The amount of such earnings attributable to each retirement system shall be computed by the actuary and certified to the comptroller, who shall thereupon credit each retirement system in accordance therewith.

§ 424-a. Use of placement agents or intermediaries prohibited. 1. The fund shall not engage, hire, invest with or commit to an investment manager that is using the services of a placement agent or intermediary to assist such investment manager in obtaining investments by the fund nor shall the fund engage, hire, invest with or commit to an investment manager without obtaining from such investment manager a certification in the form and manner prescribed by the fund stating that such investment manager has not used the services of a placement agent or other intermediary to assist such investment manager in obtaining investments by the fund.

2. For the purposes of this section:

(a) "investment manager" shall mean any person, other than an employee of the comptroller, or entity engaged by the common retirement fund to manage a part or all of an investment portfolio of the fund. "Manage" shall include, but is not limited to, the analysis of portfolio holdings, and the purchase, sale, and lending thereof. Any investment made by the fund pursuant to subdivision seven of section one hundred seventy-seven of this chapter shall be deemed to be the investment of the fund in such investment entity rather than in the assets of such investment entity.

(b) "placement agent or intermediary" shall mean any person or entity, including registered lobbyists, directly or indirectly engaged and compensated by an investment manager, other than an employee of the investment manager, to assist the investment manager in obtaining investments by the fund whether compensated on a flat fee, a contingent fee, or any other basis. Employees of an investment manager and its

affiliates are excluded from this definition unless they are employed principally for the purpose of securing or influencing the decision to secure a particular investment transaction or investment by the fund.

§ 425. Separability of retirement systems. No provision of this article shall be construed as an impairment of the separability of or of the corporate powers and privileges of the employees' retirement system or the police and fire retirement system. The comptroller shall establish or continue separate funds and accounts for each retirement system, consistent with the common retirement fund herein provided for, as may be required to carry out the separate purposes and privileges of each retirement system.

ARTICLE TEN

PAYMENT FOR BENEFIT IMPROVEMENTS

Section 430. Current payment for benefit improvements.

431. Salary base for computing retirement benefits.

432. Definitions.

§ 430. Current payment for benefit improvements. a. Whenever a new benefit or an improvement in any benefit takes effect or is enacted after July first, nineteen hundred seventy-one which will result in an increase in cost for contributions to an actuarially funded public retirement system by the state or a municipality thereof, such employer shall commence payment for such increased cost from an appropriation made in the budget for the employer's fiscal year in which such benefit or improvement becomes effective. No such benefit or improvement shall become effective until such appropriation has been made and is available for such payment. Within ninety days after notification that such a benefit or improvement has been or is to be made, the head of the retirement system affected shall submit to the fiscal officer of the employer, or in the case of the state or the city of New York to the director of the budget thereof, an estimate of the amount sufficient to provide for the initial actuarial payment to the retirement system of

all additional obligations created by such benefit or improvement and such employer shall make payment of such amount to the retirement system during such employer's fiscal year in which such benefit or improvement is made effective. In computing the amount to be paid by such employer during the normal valuation process for obligations attributable to the fiscal year in which such benefit or improvement became effective, appropriate adjustments shall be made for amount already paid pursuant to this section.

b. If payment of the full amount of an obligation required to be paid by subdivision a of this section is not made by a participating employer in a state retirement system, including the state teachers' retirement system, by the close of such employer's fiscal year, interest at the rate of six per centum per annum shall commence to run against the unpaid balance thereof on the first day of the next succeeding fiscal year.

c. The comptroller or the retirement board of the state teachers' retirement system shall have full power and authority to bring suit in the supreme court against any participating employer in a retirement system headed by such comptroller or such board to recover any sum, payment of which is not made as herein required. While any such sum shall remain due and unpaid the comptroller may refuse to audit any claim for funds due to such employer from the state.

§ 431. Salary base for computing retirement benefits. In any retirement or pension plan to which the state or municipality thereof contributes, the salary base for the computation of retirement benefits shall in no event include any of the following earned or received, on or after April first, nineteen hundred seventy-two:

1. lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked,
2. any form of termination pay,

3. any additional compensation paid in anticipation of retirement, or
4. that portion of compensation earned during any twelve months included in such salary base period which exceeds that of the preceding twelve months by more than twenty per centum.

§ 432. Definitions. The definitions in section two of this chapter shall be applicable to this article.

ARTICLE ELEVEN

LIMITATIONS APPLICABLE TO NEW ENTRANTS

- Section 440. Application.
441. Eligibility for retirement.
 442. Minimum age for retirement.
 443. Final average salary.
 444. Maximum retirement benefits.
 445. Service retirement benefit.
 - 445-a. Optional twenty-year improved benefit retirement program for New York city correction members below the rank of captain.
 - 445-b. Optional twenty-year improved benefit retirement program for New York city sanitation members.
 - 445-c. Optional twenty-year improved benefit retirement program for New York city correction members of the rank of captain or above.
 - 445-d. Optional age fifty-five improved benefit retirement program for certain New York city members.
 - 445-d*2. Optional twenty-year/age fifty improved benefit retirement program for Triborough bridge and tunnel members.
 - 445-e. Optional twenty-five year improved benefit retirement program for dispatcher members.
 - 445-e*2. Optional twenty-five year improved benefit retirement program for EMT members.
 - 445-f. Optional twenty-five year improved benefit retirement

- program for deputy sheriff members.
- 445-f*2. Optional twenty-five year/age fifty improved benefit retirement program for senior automotive service workers, automotive service workers, auto body workers, auto mechanics, marine maintenance mechanics and oil burner specialists.
 - 445-f*3. Optional twenty-five year improved benefit retirement program for special officer, parking control specialist, school safety agent, campus peace officer, and New York city taxi and limousine inspector members.
 - 445-g. Optional twenty-five year/age fifty improved benefit retirement program for automotive members.
 - 445-h. Optional twenty-five year improved benefit retirement program for police communications members.
 - 445-i. Optional age fifty-five retirement program for New York city teachers and certain other members.
 - 446. Credit for service.
 - 447. Options.
 - 448. Death benefits.
 - 448-a. Death benefit for vested members who die prior to retirement.
 - 450. Definitions.
 - 451. Duration.

§ 440. Application. a. Notwithstanding any other provision of law, but subject to the provisions of subdivisions c and d of this section, the provisions and limitations of this article shall apply, as may be appropriate, to all members who join or rejoin a public retirement system of the state or of a municipality thereof, and to all employees who would be eligible to join such a retirement system but in lieu thereof elected an optional retirement program to which their employers are thereby required to contribute, on or after July first, nineteen hundred seventy-three, but prior to July first, nineteen hundred seventy-six. In the event that there is a conflict between the provisions of this article and the provisions of any other law or code,

the provisions of this article shall govern.

b. The provisions of this article shall not be construed to extend coverage to an employee not otherwise eligible for membership in a retirement system or to provide an increase in benefits to a member of a retirement system other than as provided by section four hundred forty-five-d, or section four hundred forty-five-f, or section four hundred forty-five-h or section four hundred forty-eight of this article.

c. Notwithstanding any other provision of law, the provisions and limitations of this article shall apply, as may be appropriate, to all police officers and firefighters who last joined a public retirement system of the state or a municipality thereof, on or after July first, nineteen hundred seventy-six, but prior to July first, two thousand nine, and all employees subject to the provisions of article twenty-two of this chapter; provided, however, that in the case of a conflict between the provisions of this article and article twenty-two of this chapter, the provisions of article twenty-two shall be controlling.

d. Notwithstanding the provisions of subdivision a of this section, members who were employed by the New York city board of education and assigned during the first fifteen days of the school term to a position which is expected to be vacant for that term and who were employed in one of the three school years immediately prior to July first, nineteen hundred seventy-three in a position which did not entitle them to apply for membership in a public retirement system and who first joined the New York city teachers' retirement system subsequent to June thirtieth, nineteen hundred seventy-three but prior to June thirtieth, nineteen hundred seventy-six shall have all the rights, benefits and privileges applicable to employees who were members of such system on June thirtieth, nineteen hundred seventy-three provided they make written application, duly executed and filed with the New York city teachers' retirement board prior to July first, nineteen hundred eighty-nine.

d-1. Notwithstanding the provisions of subdivision a of this section, members who were employed by the New York city board of education as

regular substitute teachers when assigned as such and members who were employed by the New York city board of education and assigned during the school year to a position which was expected to be vacant for that school year, such members having been employed for a period of not less than twenty school days during such school year in a position which did not entitle them to apply for membership in a public retirement system and who first joined the New York city teachers' retirement system or the New York state teachers' retirement system prior to June thirtieth, nineteen hundred seventy-six shall have all the rights, benefits and privileges to which they would have been entitled had their current membership begun on the date their original service commenced, provided they make written application, duly executed and filed with the retirement system in which they are members on or before June thirtieth, two thousand three.

e. Notwithstanding any other provision of law to the contrary, the provisions and limitations of this article shall apply, as may be appropriate, to all investigator members of the New York city employees' retirement system who last joined such retirement system on or after July first, nineteen hundred seventy-six, and prior to the effective date of the chapter of the laws of two thousand twelve which amended this subdivision.

§ 441. Eligibility for retirement. a. No member of a retirement system who is subject to the provisions of this article shall be eligible to retire until he has rendered a minimum of five years of credited service after July first, nineteen hundred seventy-three; provided, however, that this limitation shall not apply to the case of a member otherwise eligible to retire for disability. A member who attains the mandatory retirement age of the plan of which he is a member without having the requisite period of service required as a condition of eligibility for retirement, shall be separated from service upon attainment of such mandatory retirement age; provided, however, that this requirement shall not preclude a member from being continued in service beyond such mandatory retirement age pursuant to other appropriate provisions of law.

b. Notwithstanding the provisions of subdivision a of this section, a retired member, receiving a retirement allowance for other than physical disability: (i) who returns to active public service and joins or rejoins a public retirement system on or after July first, nineteen hundred seventy-three; and (ii) who thereafter separates from service prior to the completion of two years of credited service, shall, upon such separation, be entitled to receive a retirement allowance which shall consist of an annuity which is the actuarial equivalent of his accumulated contributions, and the pension, including pension-providing-for-increased-take-home-pay, which he was receiving prior to his last restoration to membership.

c. Notwithstanding the provisions of subdivision a of this section, a member of a retirement system who is subject to the provisions of this article shall be eligible to retire without having rendered a minimum of five years of credited service after July first, nineteen hundred seventy-three, if such member has rendered a minimum of five years of continuous service, in the employ of the participating employer from which he retires, immediately prior to retirement. For the purpose of this subdivision, the term "service" shall mean credited service rendered after July first, nineteen hundred seventy-three, and prior service rendered immediately before entry into a retirement system.

d. Notwithstanding the provisions of subdivision a of this section, a member of a retirement system who is subject to the provisions of this article shall be eligible to retire without having rendered a minimum of five years of credited service after July first, nineteen hundred seventy-three if such member has rendered a minimum of three years of continuous service after July first, nineteen hundred seventy-three and had rendered at least twenty years of credited service prior to January first, nineteen hundred fifty-five.

§ 442. Minimum age for retirement. a. The minimum retirement age for any member of a retirement system who is subject to the provisions of this article, other than a member permitted to retire upon completion of

twenty or twenty-five years of service pursuant to section four hundred forty-five of this article, or a member who is eligible to retire pursuant to subdivision c of section four hundred forty-five-d of this article or subdivision c of section four hundred forty-five-i of this article, and exclusive of retirement for disability, shall be sixty-two; however, such a member may retire prior to attainment of age sixty-two in which event the amount of his retirement benefit otherwise computed without optional modification from funds based on other than his own contributions and exclusive of his pension-for-increased-take-home-pay, shall be reduced in accordance with the following schedule:

1. For each of the first twenty-four full months that retirement predates age sixty-two, one-half of one percentum per month; and

2. For each full month that retirement predates age sixty, one-quarter of one percentum per month, but in no event shall retirement be permitted prior to attainment of age fifty-five.

b. Notwithstanding the provisions of subdivision a of this section:

1. A member who is a peace officer employed by the unified court system or a member of a teacher's retirement system or a member of the New York state and local employees' retirement system may retire without reduction of his retirement benefit upon his attainment of at least fifty-five years of age and completion of thirty or more years of service; and

2. A member of the optional twenty year retirement plan for sheriffs, undersheriffs, and regular deputy sheriffs in counties which have elected to provide same having a mandatory retirement age on July first, nineteen hundred seventy-three, earlier than age sixty-two may retire without reduction of his retirement benefit upon attainment of the mandatory retirement age; however, if such a member retires prior to attainment of the mandatory retirement age, the amount of his retirement benefit otherwise computed without optional modification from funds based on other than his own contributions and exclusive of his pension-for-increased-take-home-pay, shall be reduced by one-half of one

percentum per month for each full month by which his retirement predates such mandatory retirement age.

3. Notwithstanding paragraph a of this subdivision or any other law to the contrary a participating employer may elect to provide its employees who are members of the optional twenty year retirement plan for police and firefighters eligibility to retire at age fifty-five without reduction and then such employees may elect to join under section three hundred seventy-five-i or three hundred seventy-five-j of this chapter, if either plan is provided by the employer, and retire without reduction of their retirement benefits upon attaining the age of fifty-five.

4. A demand in collective bargaining negotiations for the additional benefit provided by paragraph three of this subdivision shall not be subject to the provisions of paragraph (b) or (c) of subdivision four of section two hundred nine of the civil service law, nor shall such demand be subject to any provision for interest arbitration contained in any local law, resolution or ordinance adopted by any governmental entity pursuant to subdivision one of section two hundred twelve of the civil service law.

§ 443. Final average salary. a. The salary base used for the computation of benefits upon retirement, hereinafter called in this article final average salary, applicable to all members of the retirement systems who are subject to the provisions of this article, shall be the average salary earned by such a member during any three consecutive years which provide the highest average salary, exclusive of any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit, or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence); provided, however, if the salary or wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than twenty percentum, the amount in excess of twenty percentum shall be excluded from the computation of final

average salary. Where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

b. Notwithstanding the provisions of subdivision a of this section, with respect to the members of the New York state employees' retirement system, the New York state and local police and fire retirement system and the New York city teachers' retirement system, the final average salary, shall be equal to one-third of the highest total salary earned during any continuous period of employment for which the member was credited with three years of service credit, exclusive of any form of termination pay (which shall include any compensation in anticipation of retirement), any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit, or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence); provided, however, if the salary earned during any year of credited service included in the period used to determine final average salary exceeds the average of the salaries of the previous two years of credited service by more than twenty per centum, the amount in excess of twenty per centum shall be excluded from the computation of final average salary.

c. Notwithstanding the provisions of subdivisions a and b of this section, with respect to police officers and firefighters as defined in section four hundred fifty of this chapter, the final average salary of an employee who has been a member of a retirement system for less than one year shall be the projected one year salary, with the calculation based upon a twelve month projection of the sums earned in the portion of the year worked. If a member has been employed for more than one year but less than two years, then the member's final average salary shall be the average of the first year and projected second year earnings based upon the calculation above, and if more than two years, but less than

three years, then one-third the total of the first two years of employment plus the projected third year's earnings, calculated as indicated above.

d. Notwithstanding the provisions of subdivisions a and b of this section, the final average salary of an employee who has been a member of the New York city employees' retirement system or the New York city teachers' retirement system for less than one year shall be the projected one year salary, with the calculation based upon a twelve month projection of the sums earned in the portion of the year worked. If a member has been employed for more than one year but less than two years, then the member's final average salary shall be the average of the first year and projected second year earnings based upon the calculation above, and if more than two years, but less than three years, then one-third the total of the first two years of employment plus the projected third year's earnings, calculated as indicated above.

e. Subject to the provisions of subdivision d of this section, and notwithstanding the provisions of subdivision a of this section, with respect to members of the New York city employees' retirement system and the New York city board of education retirement system who are subject to the provisions of this article, the final average salary shall be determined pursuant to the provisions of paragraph twelve of subdivision e of section 13-638.4 of the administrative code of the city of New York.

f. Notwithstanding the provisions of subdivisions a, b and c of this section, a participating employer may elect, pursuant to the provisions of paragraph d of subdivision nine of section three hundred two of this chapter, to have the provisions of such paragraph apply to the police officers and firefighters in its employ who are subject to the provisions of this article.

f-1. A demand in collective negotiations for the additional pension benefit provided by subdivision f of this section shall not be subject to the provisions of paragraph (b) or (c) of subdivision four of section two hundred nine of the civil service law, nor shall such demand be

subject to any provision for interest arbitration contained in any local law, resolution or ordinance adopted by any governmental entity pursuant to subdivision one of section two hundred twelve of the civil service law.

g. Notwithstanding the provisions of subdivisions a and c of this section, the benefits for the first twenty years or less of service of members of the New York city police pension fund, subchapter two, who are subject to the provisions of this article, and members of the fire department pension fund, subchapter two, who are subject to the provisions of this article, shall be determined by using a salary base equal to the salary earned by such member during the one-year period immediately prior to retirement or separation from service due to vesting, exclusive of any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit, or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence); provided, however, if the salary or wages earned during the one-year period immediately prior to retirement or separation from service due to vesting exceeds that of the previous one-year period by more than twenty per centum, the amount in excess of twenty per centum shall be excluded from the computation of final average salary. In determining final average salary, any month or months (not in excess of three) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

h. Notwithstanding any general, special or local law, charter, administrative code, agreement, resolution or rule or regulation to the contrary, the salary base for members of the city of New York fire department pension fund whose employment with the fire department of the city of New York commenced on or after the first of July, two thousand to whom this article otherwise applies shall be determined in the same manner as the salary base for members of the city of New York fire

department pension fund whose employment with the fire department of the city of New York commenced before the first of July, two thousand.

§ 444. Maximum retirement benefits. a. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, the maximum retirement benefit computed without optional modification provided to a member of a retirement system who is subject to the provisions of this article, other than a police officer, a firefighter, an investigator member of the New York city employees' retirement system, a member of the uniformed personnel in institutions under the jurisdiction of the New York city department of correction who receives a performance of duty disability retirement allowance, a member of the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who receives a performance of duty disability retirement allowance, a member of a teachers' retirement system, New York city employees' retirement system, New York city board of education retirement system or a member of the New York state and local employees' retirement system or a member of the New York city employees' retirement system or New York city board of education retirement system employed as a special officer, parking control specialist, school safety agent, campus peace officer, taxi and limousine inspector or a police communications member and who receives a performance of duty disability pension, from funds other than those based on a member's own or increased-take-home-pay contributions, shall, before any reduction for early retirement, be sixty per centum of the first fifteen thousand three hundred dollars of final average salary, and fifty per centum of final average salary in excess of fifteen

thousand three hundred dollars, and forty per centum of final average salary in excess of twenty-seven thousand three hundred dollars, provided, however, that the benefits provided by subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five based upon the additional member contributions required by subdivision d of such section four hundred forty-five-d shall be subject to the maximum retirement benefit computations set forth in this section. The maximum retirement benefit computed without optional modification payable to a police officer, an investigator member of the New York city employees' retirement system or a firefighter shall equal that payable upon completion of thirty years of service, except that the maximum service retirement benefit computed without optional modification shall equal that payable upon completion of thirty-two years of service.

b. Notwithstanding the provisions of subdivision a of this section, a member employed as a uniformed court officer or peace officer in the unified court system granted accidental disability retirement benefits shall receive a pension of three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

c. Notwithstanding section three hundred sixty-three-c of this chapter, accidentally disabled police officers and firefighters shall receive a pension of three-quarters of their final average salary. The payment of such pension shall be subject to the provisions of section three hundred sixty-four of this chapter.

d. Notwithstanding the provisions of subdivision a of this section, the retirement benefit payable to a member of the New York city police pension fund or the New York city fire department pension fund who has completed thirty or more years of service at the time of his or her retirement shall be based on the total service with which such member has been credited at retirement.

§ 445. Service retirement benefit. a. No member of a retirement

system who is subject to the provisions of this article shall retire without regard to age, exclusive of retirement for disability, unless they are a police officer, an investigator member of the New York city employees' retirement system, firefighter, correction officer, a qualifying member as defined in section eighty-nine-t, as added by chapter six hundred fifty-seven of the laws of nineteen hundred ninety-eight, of this chapter, sanitation worker, a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), school safety agent, campus peace officer or a taxi and limousine commission inspector member of the New York city employees' retirement system or the New York city board of education retirement system, a dispatcher member of the New York city employees' retirement system, a police communications member of the New York city employees' retirement system, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city employees' retirement system, a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter or employed in Suffolk county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred eighty-eight of the laws of nineteen hundred ninety-seven, of this chapter, employed in Suffolk county as a correction officer, as defined in section eighty-nine-f of this chapter, or employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, or employed in Nassau county as an ambulance medical technician, an ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services, as defined in section eighty-nine-s, as amended by chapter five hundred seventy-eight of the laws of nineteen hundred ninety-eight, of this chapter, or employed in Nassau county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred ninety-five of the laws of nineteen hundred ninety-seven, of this chapter, or employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer, as defined in section eighty-nine-h of this chapter or is employed in St. Lawrence county as a sheriff, undersheriff, deputy

sheriff or correction officer, as defined in section eighty-nine-i of this chapter or is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-l of this chapter or is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-j of this chapter or is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer, as defined in section eighty-nine-k of this chapter or is employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in such section eighty-nine-p or is employed in Broome County as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-m of this chapter or is a Monroe county deputy sheriff-court security, or deputy sheriff-jailor as defined in section eighty-nine-n, as added by chapter five hundred ninety-seven of the laws of nineteen hundred ninety-one, of this chapter or is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-o of this chapter or is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter or is employed by Suffolk county as a park police officer, as defined in section eighty-nine-r of this chapter or is a peace officer employed by a county probation department as defined in section eighty-nine-t, as added by chapter six hundred three of the laws of nineteen hundred ninety-eight, of this chapter or is employed in Rockland county as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter as added by chapter four hundred forty-one of the laws of two thousand one, or is employed in Rockland county as a superior correction officer as defined in section eighty-nine-v of this chapter as added by chapter five hundred fifty-six of the laws of two thousand one or is a paramedic employed by the police department in the town of Tonawanda and retires under the provisions of section eighty-nine-v of this chapter, as added by chapter four hundred seventy-two of the laws of two thousand one, or is a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal, division supervising fire marshal or fire marshal trainee employed by the county of Nassau as

defined in section eighty-nine-w of this chapter or is employed in Monroe county as a deputy sheriff-civil as defined in section eighty-nine-x of this chapter, employed as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles in a participating Suffolk county fire district as defined in section eighty-nine-ss of this chapter, or is a firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer employed by the division of military and naval affairs as defined in section eighty-nine-y of this chapter and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, a member in such a plan and such an occupation, other than a police officer or investigator member of the New York city employees' retirement system or a firefighter, shall not be permitted to retire prior to the completion of twenty-five years of credited service; provided, however, if such a member in such an occupation is in a plan which permits retirement upon completion of twenty years of service regardless of age, they may retire upon completion of twenty years of credited service and prior to the completion of twenty-five years of service, but in such event the benefit provided from funds other than those based on such a member's own contributions shall not exceed two per centum of final average salary per each year of credited service.

b. No member in a retirement plan which, prior to the effective date of this article, permitted all members to retire upon the attainment of age fifty and completion of twenty years of service shall be permitted to retire without benefit reduction prior to the attainment of age fifty-five and completion of twenty-five years of service. In the event that such a member retires prior to the attainment of age fifty-five or

completion of twenty-five years of service, the benefit provided from funds other than those based on such a member's own contributions shall not exceed two percentum of final average salary per each year of credited service.

c. A person who is a member of an optional twenty year retirement plan for police officers and firefighters in jurisdictions which have elected to provide such plan and such jurisdiction further elects to permit retirement at age fifty-five without reduction may then elect to join under section three hundred seventy-five-i or three hundred seventy-five-j of this chapter, if either plan is provided by the employer, and may retire without reduction of his or her retirement benefit upon attaining the age of fifty-five.

§ 445-a. Optional twenty-year improved benefit retirement program for New York city correction members below the rank of captain. a.

Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "New York city correction officer below the rank of captain" shall mean a member of the uniformed force of the New York city department of correction who holds the rank of correction officer below the rank of captain in the correction service of the classification of the department of personnel of such city.

3. "New York city correction member below the rank of captain" shall mean a member of the retirement system who is subject to the provisions of this article, who is a New York city correction officer below the rank of captain and who has elected to contribute to the retirement system on the basis of a minimum retirement period of twenty years of credited service pursuant to the optional retirement provisions of section 13-155 of the administrative code.

4. "Twenty-year improved benefit retirement program" shall mean all the terms and conditions of this section.

5. "Starting date of the twenty-year improved benefit retirement program" shall mean the effective date of this section, as such date is certified pursuant to section forty-one of the legislative law.

6. "Participant in the twenty-year improved benefit retirement program" shall mean any New York city correction member below the rank of captain who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year improved benefit retirement program, as applicable to him or her.

7. "Administrative code" shall mean the administrative code of the city of New York.

8. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

9. "New York city correction officer of the rank of captain or above" shall have the same meaning as set forth in paragraph two of subdivision a of section four hundred forty-five-c of this article.

10. "Twenty-year improved benefit retirement program for captains and above" shall mean all the terms and conditions of section four hundred forty-five-c of this article.

11. "Starting date of the twenty-year improved benefit retirement program for captains and above" shall have the same meaning as set forth in paragraph five of subdivision a of section four hundred forty-five-c of this article.

b. Election of twenty-year improved benefit retirement program. 1. Subject to the provisions of paragraph five of this subdivision, any

person who is a New York city correction member below the rank of captain on the starting date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a correction member below the rank of captain on the date such application is filed.

2. Subject to the provisions of paragraph five of this subdivision, any person who becomes a New York city correction member below the rank of captain after the starting date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within one hundred eighty days after becoming such a correction member, a duly executed application for such participation with the retirement system, provided he or she is such a correction member below the rank of captain on the date such application is filed.

3. Any election to be a participant in the twenty-year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-year improved benefit retirement program shall cease to hold the position of New York city correction officer below the rank of captain, he or she shall cease to be such a participant and, during any period in which such person does not hold the position of New York city correction officer below the rank of captain, he or she shall not be a participant in the twenty-year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-year improved benefit retirement program terminates service as a New York city correction officer below the rank of captain and returns to such service as a New York city correction member below the rank of captain at a later date, he or she shall again become such a participant on that date.

6. Where any participant in the twenty-year improved benefit retirement program terminates service as a correction officer below the rank of captain, attains the rank of captain in the uniformed force of the New York city department of correction and thereafter terminates such service and immediately returns to service in the rank of correction officer below the rank of captain, he or she shall be eligible to purchase service credit for the period during which he or she held the rank of captain, provided he or she shall be charged with a contribution deficiency based upon his or her compensation as a captain and pay additional member contributions as provided in subdivision d of this section at the same rate he or she would have had to contribute if he or she held the rank of correction officer below the rank of captain during such time and had no such break in service; provided further that he or she shall be permitted to purchase such credit if he or she immediately returns to service in the rank of correction officer below the rank of captain only during the eighteen month probationary period, or such greater probationary period as may be applicable, unless he or she is involuntarily transferred from the position of captain to correction officer below the rank of captain in which event he or she shall be authorized to purchase such service credit.

c. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to section 13-155 of the administrative code, has made and/or paid, while he or she is a New York city correction member below the rank of captain, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. That participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. If that participant, while such a participant, retires for service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. The maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

4. Notwithstanding any other provision of this article to the contrary, a participant in the twenty-year improved benefit retirement program shall be entitled to the application of the same provisions with respect to credited service as now or hereinafter apply to a similarly situated correction officer under this article who is not a participant in such retirement program.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-155 of the administrative code, each participant in the twenty-year improved benefit retirement program shall contribute (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional six and thirty-seven one-hundredths percent of his or her compensation earned from all service as a New York city correction member below the rank of captain rendered on and after the starting date of the twenty-year improved benefit retirement program. A participant in the twenty-year improved benefit retirement program shall contribute additional member contributions only until he or she is eligible to retire with twenty years of credited service under such retirement program.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-year improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this

subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system; and

(C) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by a participant in the twenty-year improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a New York city correction member below

the rank of captain, that participant shall not be entitled to the benefits provided in subdivision c of this section.

6. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be accumulated deductions of a member of the retirement system while he or she is a participant in the twenty-year improved benefit retirement program or otherwise.

(ii) Except as otherwise provided in subparagraph (iii) of this paragraph, should a participant in the twenty-year improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold the position of New York city correction officer below the rank of captain for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon equal to eight and one-quarter percent per annum, compounded annually.

(iii) (A) Notwithstanding any other provision of law to the contrary, any person who has been promoted directly from the position of New York city correction officer below the rank of captain to the position of New York city correction officer of the rank of captain or above, who withdraws any portion of his or her accumulated additional member contributions pursuant to subparagraph (ii) of this paragraph on or

after the starting date of the twenty-year improved benefit retirement program for captains and above, shall not be eligible to elect to become a participant in the twenty-year improved benefit retirement program for captains and above.

(B) Notwithstanding any other provision of law to the contrary, any former participant in the twenty-year improved benefit retirement program who becomes a participant in the twenty-year improved benefit retirement program for captains and above, and who has additional member contributions on deposit in the contingent reserve fund of the retirement system at the time he or she becomes a participant in the twenty-year improved benefit retirement program for captains and above, shall not be permitted to withdraw any portion of such accumulated additional member contributions pursuant to the provisions of subparagraph (ii) of this paragraph at any time while he or she is a participant in the twenty-year improved benefit retirement program for captains and above.

(iv) Except as otherwise provided in subparagraph (ii) of this paragraph, no member of the retirement system, while he or she is a participant in such retirement program or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

8. No member of the retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon) which are subject to this subdivision.

9. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

10. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

e. The provisions of subdivision b of section four hundred forty of this article shall apply to participants under this section.

§ 445-b. Optional twenty-year improved benefit retirement program for New York city sanitation members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context:

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "New York city sanitation member" shall mean a member of the retirement system who is subject to the provisions of this article, who is a member of the uniformed force of the New York city department of sanitation and who has elected to contribute to the retirement system on the basis of a minimum retirement period of twenty years of allowable service rendered in such sanitation force pursuant to the optional retirement provisions of section 13-159 or 13-160 of the administrative code.

3. "Twenty-year improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-year improved benefit retirement program" shall mean the commencement date of the payroll period which includes July first, nineteen hundred ninety-two.

5. "Enactment date of the twenty-year improved benefit retirement program" shall mean the date of enactment of the act which added this section, as such date is certified pursuant to section forty-one of the legislative law.

6. "Participant in the twenty-year improved benefit retirement program" shall mean any New York city sanitation member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year improved benefit retirement program, as applicable to him or her.

7. "Administrative code" shall mean the administrative code of the city of New York.

8. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

b. Election of twenty-year improved benefit retirement program. 1. Subject to the provisions of paragraph five of this subdivision, any person who is a New York city sanitation member on the enactment date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within ninety days after such enactment date, a duly executed application for such participation with the retirement system, provided he or she is such a sanitation member on the date such application is filed.

2. Subject to the provisions of paragraph five of this subdivision, any person who becomes a New York city sanitation member after the enactment date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within ninety days after becoming such a sanitation member, a duly executed application for such participation with the retirement system, provided he or she is such a sanitation member on the date such application is filed.

3. Any election to be a participant in the twenty-year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-year improved benefit retirement program shall cease to hold a position in the uniformed force of the New York city department of sanitation, he or she shall cease to be such a participant and, during any period in which such person does not hold such a uniformed sanitation position, he or she shall not be a participant in the twenty-year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-year improved benefit retirement program terminates service in the uniformed force of the New York city department of sanitation and returns to such service as a New York city sanitation member at a later date, he or she shall again become such a participant on that date.

c. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to section 13-159, 13-160 or 13-173.1 of the administrative code, has made and/or paid, while he or she is a New York city sanitation member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

(i) that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this chapter; and

(ii) if that participant, while such a participant, retires from service, he or she shall not be subject to the provisions of section four hundred forty-four of this chapter; and

(iii) the maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-159 or 13-160 of the administrative code, each participant in the twenty-year improved benefit retirement program shall contribute (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional five and thirty-five one-hundredths percent of his or her compensation earned from all service as a New York city sanitation member (including service creditable as such sanitation service) rendered on and after the starting date of the twenty-year improved benefit retirement program. A participant in the twenty-year improved benefit retirement program shall contribute additional member contributions only until he or she is eligible to retire with twenty years of allowable service in the

uniformed force of the New York city department of sanitation under such retirement program.

2. (i) Commencing with the payroll period which begins on the starting date of the twenty-year improved benefit retirement program (for a person who elects to become a participant prior to such starting date), or commencing with the first full payroll period after a person becomes such a participant (for a person who becomes a participant on or after such starting date), additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

(ii) (A) Where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to subparagraph (i) of this paragraph because such contributions are for service rendered in a payroll period prior to the actual commencement of deductions pursuant to such subparagraph (i), such amounts shall be paid by deductions from the compensation of such participant pursuant to item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from a participant's compensation are begun pursuant to subparagraph (i) of this paragraph, addition to such deductions required by such subparagraph (i), there shall be another deduction of additional member contributions made from the compensation of such participant at the rate specified in paragraph one of this subdivision (subject to the applicable provisions of section 13-125.1 of the administrative code) on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph.

3. (i) (A) Where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision, that participant shall be charged with a contribution

deficiency consisting of such unpaid amounts, together with interest thereon as required by subparagraph (ii) of this paragraph compounded annually.

(B) Except as provided in subparagraph (ii) of this paragraph, no participant shall be required to pay any interest on his or her contribution deficiency.

(ii) (A) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to item (B) of this subparagraph) as if such additional contributions had never been made.

(B) Interest on the amounts of additional member contributions included in a participant's contribution deficiency pursuant to item (A) of this subparagraph shall be calculated as if such additional member contributions had never been paid by a participant, and such interest shall accrue from the end of the payroll period to which an amount of additional member contributions is attributable, until such amount is paid to the retirement system.

(C) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members, compounded annually.

4. A participant, while he or she is a New York city sanitation member, shall pay the total amount of his or her contribution deficiency to the retirement system in accordance with payment procedures which shall be established by the executive director of the retirement system, and approved by the board of trustees of the retirement system.

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a New York city sanitation member, that participant shall not be entitled to the benefits provided in

subdivision c of this section.

6. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be accumulated deductions of a member of the retirement system while he or she is a participant in the twenty-year improved benefit retirement program or otherwise.

(ii) (A) Should a participant in the twenty-year improved benefit retirement program, who has rendered less than fifteen years of service in the uniformed force of the New York city department of sanitation cease to hold a position in such uniformed force for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of eight and one-quarter percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-year improved benefit retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated deductions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together

with interest thereon at the rate of eight and one-quarter percent per annum, compounded annually.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, no member of the retirement system, while he or she is a participant in such retirement program or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

8. No member of the retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon) which are subject to this subdivision.

9. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

10. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

e. The provisions of this section shall not be construed to provide benefits to any participant in the twenty-year improved benefit retirement program which are greater than those which would be received by a similarly situated member of the uniformed force of the New York city department of sanitation who is governed by the provisions of section 13-159 or 13-160 of the administrative code, but who is not governed by the provisions of this article.

§ 445-c. Optional twenty-year improved benefit retirement program for New York city correction members of the rank of captain or above. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees'

retirement system.

2. "New York city correction officer of the rank of captain or above" shall mean a member of the uniformed force of the department of correction of the city of New York who holds the rank of correction captain; assistant deputy warden, also known as warden correction level I; deputy warden or deputy warden-in-command, also known as warden correction level II; warden or deputy chief, also known as warden correction level III; or chief of department, also known as warden correction in the correction service of such city.

3. "New York city correction member of the rank of captain or above" shall mean a member of the retirement system who is subject to the provisions of this article, who is a New York city correction officer of the rank of captain or above and who has elected to contribute to the retirement system on the basis of a minimum retirement period of twenty years of credited service pursuant to the optional retirement provisions of section 13-155 of the administrative code.

4. "Twenty-year improved benefit retirement program for captains and above" shall mean all the terms and conditions of this section.

5. "Starting date of the twenty-year improved benefit retirement program for captains and above" shall mean the effective date of this section, as such date is certified pursuant to section forty-one of the legislative law.

6. "Participant in the twenty-year improved benefit retirement program for captains and above" shall mean any New York city correction member of the rank of captain or above who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year improved benefit retirement program for captains and above, as applicable to him or her.

7. "Administrative code" shall mean the administrative code of the city of New York.

8. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

b. Election of twenty-year improved benefit retirement program for captains and above. 1. Subject to the provisions of paragraph five of this subdivision and of subparagraph (iii) of paragraph seven of subdivision d of section four hundred forty-five-a of this article, any person who is a New York city correction member of the rank of captain or above on the starting date of the twenty-year improved benefit retirement program for captains and above may elect to become a participant in the twenty-year improved benefit retirement program for captains and above by filing, within ninety days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a correction member of the rank of captain or above on the date such application is filed.

2. Subject to the provisions of paragraph five of this subdivision and of subparagraph (iii) of paragraph seven of subdivision d of section four hundred forty-five-a of this article, any person who becomes a New York city correction member of the rank of captain or above after the starting date of the twenty-year improved benefit retirement program for captains and above may elect to become a participant in the twenty-year improved benefit retirement program for captains and above by filing, within ninety days after becoming such a correction member, a duly executed application for such participation with the retirement system, provided he or she is such a correction member of the rank of captain or above on the date such application is filed.

3. Any election to be a participant in the twenty-year improved benefit retirement program for captains and above shall be irrevocable.

4. Where any participant in the twenty-year improved benefit retirement program for captains and above shall cease to hold the position of New York city correction officer of the rank of captain or above, he or she shall cease to be such a participant and, during any

period in which such person does not hold the position of New York city correction officer of the rank of captain or above, he or she shall not be a participant in the twenty-year improved benefit retirement program for captains and above and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-year improved benefit retirement program for captains and above terminates service as a New York city correction officer of the rank of captain or above and returns to such service as a New York city correction member of the rank of captain or above at a later date, he or she shall again become such a participant on that date.

c. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph nine of subdivision d of this section, where a participant in the twenty-year improved benefit retirement program for captains and above is otherwise qualified for a retirement allowance pursuant to section 13-155 of the administrative code, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant, while such a participant, retires for service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. the maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service; and

4. notwithstanding any other provision of this article to the contrary, that participant shall be entitled to the application of the same provisions with respect to credited service as now or hereinafter apply to a similarly situated correction officer under this article who

is not a participant in such retirement program.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-155 of the administrative code, each participant in the twenty-year improved benefit retirement program for captains and above shall contribute (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional percentage of his or her compensation to the retirement system in accordance with the following schedule:

(i) each such participant who became a New York city correction member of the rank of captain or above prior to November first, nineteen hundred ninety-two shall contribute an additional five and fifty-nine one-hundredths percent of his or her compensation earned from all service as a New York city correction member of the rank of captain or above rendered on and after the starting date of the twenty-year improved benefit retirement program for captains and above;

(ii) each such participant who became or becomes a New York city correction member of the rank of captain or above for the first time on or after November first, nineteen hundred ninety-two shall contribute an additional seven and forty-six one-hundredths percent of his or her compensation earned from all service as a New York city correction member of the rank of captain or above rendered on and after the starting date of the twenty-year improved benefit retirement program for captains and above.

2. A participant in the twenty-year improved benefit retirement program for captains and above shall contribute additional member contributions only until he or she is eligible to retire with twenty years of credited service under such retirement program.

3. Commencing with the first full payroll period after each person become a participant in the twenty-year improved benefit retirement program for captains and above, additional member contributions at the applicable rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll

period.

4. In addition to the member contributions required pursuant to section 13-155 of the administrative code, and the additional member contributions required pursuant to paragraph one of this subdivision, each participant in the twenty-year improved benefit retirement program for captains and above who, prior to becoming such a participant, rendered service as a New York city correction member of the rank of captain or above on or after December nineteenth, nineteen hundred ninety and prior to the starting date of the twenty-year improved benefit retirement program for captains and above and/or service as a New York city correction member below the rank of captain on or after December nineteenth, nineteen hundred ninety and prior to becoming such a participant shall make retroactive additional member contributions to the retirement system based on such service in accordance with the following schedule:

(i) each such participant who became a New York city correction member of the rank of captain or above prior to November first, nineteen hundred ninety-two shall contribute an amount equal to five and fifty-nine one-hundredths percent of his or her compensation earned from:

(A) all service as a New York city correction member of the rank of captain or above rendered on and after December nineteenth, nineteen hundred ninety and prior to the starting date of the twenty-year improved benefit retirement program for captains and above; and

(B) all service as a New York city correction member below the rank of captain rendered on and after December nineteenth, nineteen hundred ninety and prior to becoming a participant in the twenty-year improved benefit retirement program for captains and above;

(ii) each such participant who became or becomes a New York city correction member of the rank of captain or above for the first time on or after November first, nineteen hundred ninety-two shall contribute an amount equal to seven and forty-six one-hundredths percent of his or her compensation earned from:

(A) all service as a New York city correction member of the rank of captain or above rendered on and after November first, nineteen hundred ninety-two and prior to the starting date of the twenty-year improved

benefit retirement program for captains and above; and

(B) all service as a New York city correction member below the rank of captain rendered on and after December nineteenth, nineteen hundred ninety and prior to becoming a participant in the twenty-year improved benefit retirement program for captains and above.

5. Each participant in the twenty-year improved benefit retirement program for captains and above who is required to make retroactive additional member contributions in accordance with the provisions of paragraph four of this subdivision shall be charged with a contribution deficiency consisting of the amounts of such retroactive additional member contributions determined in accordance with such paragraph four, together with interest thereon compounded annually, and

(i) such interest on each such amount shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system; and

(ii) the rate of interest to be applied to each such amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

6. Where a person who became or becomes a participant in the twenty-year improved benefit retirement program for captains and above has rendered less than fifteen years of credited service as of the date he or she became or becomes a New York city correction member of the rank of captain or above, the amount of the contribution deficiency charged to such a participant pursuant to paragraph five of this subdivision, consisting of retroactive additional member contributions plus interest on such amounts, shall be reduced by an amount equal to the additional member contributions which such participant made pursuant to paragraph one of subdivision d of section four hundred forty-five-a of this article as a participant in the twenty-year improved benefit retirement program for correction officers below the rank of captain (together with any interest thereon) which are on deposit in the contingent reserve fund of the retirement system on the date such person

became or becomes a participant in the twenty-year improved benefit retirement program for captains and above.

7. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph three of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each unpaid amount shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system; and

(C) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as otherwise provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional member contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph three of this subdivision.

(iii) Should any person who, pursuant to paragraph eleven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year improved benefit retirement program for captains and above pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

8. The board of trustees of the retirement system may, consistent with

the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by a participant in the twenty-year improved benefit retirement program for captains and above (including the deduction of such contributions, and any interest thereon, from his or her compensation).

9. Where a participant, who is otherwise eligible to have the benefits of subdivision c of this section applied to the calculation of his or her retirement allowance, did not, while he or she was a correction member of the rank of captain or above, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs five and/or seven of this subdivision, that participant, nevertheless, shall be entitled to the benefits of subdivision c of this section, provided, however, that the retirement allowance, as modified by the provisions of such subdivision c, shall be reduced by the actuarial equivalent of the amount of any contribution deficiency pursuant to such paragraphs five and/or seven which such participant did not pay while he or she was a correction member of the rank of captain or above.

10. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs five and/or seven of this subdivision, and a benefit, other than a refund of a member's accumulated deductions, or a refund of additional member contributions pursuant to paragraph eleven of this subdivision, or a retirement allowance which has been reduced pursuant to the provisions of paragraph nine of this subdivision becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

11. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be accumulated deductions of a member of the retirement system while he or she is a participant in the twenty-year improved benefit

retirement program for captains and above or otherwise.

(ii) (A) Should a participant in the twenty-year improved benefit retirement program for captains and above who has rendered less than fifteen years of credited service cease to hold the position of New York city correction officer of the rank of captain or above for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of eight and one-quarter percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-year improved benefit retirement program for captains and above, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated deductions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together with interest thereon at the rate of eight and one-quarter percent per annum, compounded annually.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, no member of the retirement system, while he or she is such a participant or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

12. Notwithstanding any other provision of law to the contrary, a member of the retirement system shall not be permitted to borrow any portion of his or her additional member contributions (including any interest paid thereon) which are subject to this subdivision.

13. Notwithstanding any other provisions of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

14. Notwithstanding any other provision of law to the contrary, the

additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

15. The provisions of subdivision b of section four hundred forty of this article shall apply to participants under this section.

*** § 445-d. Optional age fifty-five improved benefit retirement program for certain New York city members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "NYCERS" shall mean the New York city employees' retirement system.

2. "BERS" shall mean the board of education retirement system of the city of New York.

3. "Administrative code" shall mean the administrative code of the city of New York.

4. "BERS rules and regulations" shall mean the rules and regulations for the government, management and control of BERS adopted pursuant to section twenty-five hundred seventy-five of the education law.

5. "New York city eligible position" shall mean:

(i) with respect to members of NYCERS, all positions in city-service (as defined in subdivision three of section 13-101 of the administrative code), except (a) any position in the uniformed transit police force, as defined in subdivision thirty-one of section 13-101 of the administrative code; (b) any position in the New York city transit authority which is covered by the provisions of section 13-161 of the administrative code, whether or not the person employed in such position elected the benefits of such section 13-161; (c) any position in the housing police service, as defined in subdivision thirty-five of section 13-101 of the administrative code; (d) any position in the uniformed correction force, as defined in subdivision thirty-nine of section 13-101 of the administrative code; (e) any position in the uniformed

force of the department of sanitation, as defined in subdivision sixty-two of section 13-101 of the administrative code; (f) the positions of bridge and tunnel officer, bridge and tunnel sergeant, bridge and tunnel lieutenant, assistant bridge and tunnel maintainer, bridge and tunnel maintainer, senior bridge and tunnel maintainer and laborer with the Triborough bridge and tunnel authority; (g) any position in the division of housing and community renewal; (h) any position in the unified court system; (i) any teaching position with the city university of New York; and (j) any position as an investigator member; or

(ii) with respect to members of BERS, all positions in education service (as defined in paragraph fifteen of this subdivision), except any position as a substitute teacher or any other position represented by the recognized teacher organization for collective bargaining purposes.

6. "New York city eligible member" shall mean a member of NYCERS or BERS who is subject to the provisions of this article and who is employed in a New York city eligible position.

7. "Age fifty-five improved benefit retirement program" shall mean all the terms and conditions of this section.

8. "Starting date of the age fifty-five improved benefit retirement program" shall mean the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-five.

9. "Enactment date of the age fifty-five improved benefit retirement program" shall mean the date this section takes effect.

10. "Participant in the age fifty-five improved benefit retirement program" shall mean any New York city eligible member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the age fifty-five improved benefit retirement program, as applicable to him or her.

11. "Physically taxing position" shall mean, for a member of NYCERS, a New York city eligible position which is a physically taxing position as defined in subdivision fifty-six of section 13-101 of the administrative code or, for a member of BERS, a New York city eligible position which is a physically taxing position as defined in subdivision thirty-five of section two of the BERS rules and regulations.

12. "Participating retirement system" shall mean NYCERS or BERS.

13. "Credited CPP qualifying service" shall mean, for a member of NYCERS, career pension plan qualifying service, as defined in subdivision forty-eight of section 13-101 of the administrative code, which is credited to such member or, for a member of BERS, creditable career pension plan service, as defined in subdivision thirty-eight of section two of the BERS rules and regulations, which is credited to such member.

14. "Active service" shall mean, for a member of NYCERS, city-service (as defined in subdivision three of section 13-101 of the administrative code) for which such member is being paid on the payroll or, for a member of BERS, education service (as defined in paragraph fifteen of this subdivision) for which such member is being paid on the payroll.

15. "Education service" shall mean service as a paid official or employee of the board of education of the city of New York or the New York city school construction authority, and allowable pursuant to the applicable provisions which govern the service credit of a member of BERS.

16. "Active or retired employee of the council of the city of New York" shall mean all duly sworn members of the city council as well as all salaried employees who comprise the staff of the city council on a full-time or part-time basis who are either in active service on the effective date of this paragraph or who are retired from such service.

17. "Retired employee of the council of the city of New York" shall mean all duly sworn members of the New York city council as well as all

salaried employees who comprise the staff of the city council on a full-time or part-time basis who are retired from active service.

b. Participation in age fifty-five improved benefit retirement program. 1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is a New York city eligible member in active service on the enactment date of the age fifty-five improved benefit retirement program may elect to become a participant in the age fifty-five improved benefit retirement program by filing, within ninety days after such enactment date, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed. Notwithstanding this provision, a New York city eligible member in active service on the enactment date of the age fifty-five improved benefit retirement program who is an active or retired employee of the council of the city of New York may elect to participate in the age fifty-five improved benefit retirement program at any time subsequent to the enactment date of such program.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes a New York city eligible member in active service after the enactment date of the age fifty-five improved benefit retirement program may elect to become a participant in the age fifty-five improved benefit retirement program by filing, within ninety days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

3. (i) Except as provided in subparagraph (ii) of this paragraph, any election to be a participant in the age fifty-five improved benefit retirement program shall be irrevocable.

(ii) Notwithstanding any other provision of law to the contrary, any participant in the age fifty-five improved benefit retirement program whose age and amount of credited CPP qualifying service (which amount of

credited CPP qualifying service shall, for the limited purposes only of this subparagraph, include service rendered previous to becoming a member which is not yet credited, but for which such person is or may become eligible to obtain CPP qualifying service credit pursuant to applicable provisions of law) at the time of first becoming such a participant are such that he or she could not possibly be able to accumulate a total of at least twenty-five years of credited CPP qualifying service by the time he or she reaches age sixty-two, assuming such person were to earn a full year of credited CPP qualifying service in each and every year until he or she becomes sixty-two years of age (whether or not such person actually intends to earn such amounts of credit), may withdraw from the age fifty-five improved benefit retirement program by filing, within two years after first becoming such a participant, or within the period beginning November first, nineteen hundred ninety-seven and ending January thirtieth, nineteen hundred ninety-eight, a written request to withdraw from such program with the retirement system of which such person is a member.

4. Where any participant in the age fifty-five improved benefit retirement program shall cease to hold a New York city eligible position, he or she shall cease to be such a participant and, during any period in which such person is not a New York city eligible member, he or she shall not be a participant in the age fifty-five improved benefit retirement program.

5. Where any participant in the age fifty-five improved benefit retirement program terminates service in a New York city eligible position and returns to service in a New York city eligible position at a later date and again becomes a New York city eligible member, he or she shall again become such a participant upon becoming a New York city eligible member.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the age fifty-five improved benefit retirement program pursuant to paragraph one or two of this subdivision for the full ninety-day period provided for in such applicable paragraph, and who fails to timely file a duly

executed application for such participation with the appropriate retirement system, shall not thereafter be eligible to become a participant in such program. The provisions of this paragraph shall not bar participation in such program, however, by a New York city eligible member in active service on the enactment date of the age fifty-five improved benefit retirement program who is an active or retired employee of the council of the city of New York.

c. 1. Non-physically taxing service retirement. Notwithstanding any other provision of law to the contrary, a participant in the age fifty-five improved benefit retirement program:

(i) who is otherwise eligible to retire for service with immediate payability of a retirement allowance pursuant to section 13-162 of the administrative code or section thirty of the BERS rules and regulations; and

(ii) who has completed twenty-five or more years of credited CPP qualifying service; and

(iii) who has attained age fifty-five; and

(iv) who, subject to the provisions of paragraph ten of subdivision d of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four, five and six of subdivision d of this section, or, for a New York city eligible member in active service on the enactment date of the age fifty-five improved benefit retirement program who is an active or retired employee of the council of the city of New York, who has paid all additional member contributions pursuant to paragraph five of subdivision d of this section; and

(v) who shall be a participant in the age fifty-five improved benefit retirement program in active service at the time so specified for his or her retirement; shall, subject to the provisions of paragraph ten of subdivision d of this section, be permitted to retire with a minimum retirement age of fifty-five, and the benefit reduction provisions set forth in subdivision a of section four hundred forty-two of this article shall not be applied to the calculation of such participant's retirement benefit.

For a New York city eligible member in active service on the enactment

date of the age fifty-five improved benefit retirement program who is a retired employee of the council of the city of New York, however, there shall be no requirement of active service at the time of filing for retirement provided that such employee has met the other requirements of this paragraph.

2. Physically taxing service retirement. A participant in the age fifty-five improved benefit retirement program:

(i) who is otherwise eligible to retire for service with immediate payability of a retirement allowance pursuant to section 13-162 of the administrative code or section thirty of the BERS rules and regulations; and

(ii) who has completed twenty-five or more years of credited CPP qualifying service in a physically taxing position (as defined in paragraph eleven of subdivision a of this section); and

(iii) who has attained age fifty; and

(iv) who, subject to the provisions of paragraph ten of subdivision d of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four, five and six of subdivision d of this section; and

(v) who shall be a participant in the age fifty-five improved benefit retirement program in active service at the time so specified for his or her retirement; shall, subject to the provisions of paragraph ten of subdivision d of this section, be permitted to retire with a minimum retirement age of fifty, and the benefit reduction provisions set forth in subdivision a of section four hundred forty-two of this article shall not be applied to the calculation of such participant's retirement benefit.

d. Additional member contributions. 1. In addition to the member contributions required by section 13-125 or 13-162 of the administrative code or section eight or thirty of the BERS rules and regulations, each participant in the age fifty-five improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, an additional percentage or additional percentages of his or her compensation to the

retirement system of which he or she is a member in accordance with the following schedule:

(i) (A) each such participant shall contribute an additional four and thirty-five one-hundredths percent of his or her compensation earned from all credited CPP qualifying service (whether or not in a physically taxing position) rendered on and after the starting date of the age fifty-five improved benefit retirement program and prior to the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(B) each such participant shall contribute an additional two and eighty-five one-hundredths percent of his or her compensation earned from all credited CPP qualifying service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight and prior to the commencement date of the first payroll period which begins subsequent to the effective date of the chapter of the laws of two thousand one which amended this item (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(C) each such participant shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited CPP qualifying service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins subsequent to the effective date of the chapter of the laws of two thousand one which added this item (1)

while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(ii) each such participant who is employed in a physically taxing position (as defined in paragraph eleven of subdivision a of this section) shall contribute, in addition to the additional member contributions required to be made at the percentage of compensation specified in subparagraph (i) of this paragraph for the credited CPP qualifying service specified in such subparagraph (i), an additional one and ninety-eight one-hundredths percent of his or her compensation earned from that portion of such credited CPP qualifying service which is rendered in a physically taxing position on and after the starting date of the age fifty-five improved benefit retirement program (A) while such person is a participant in such program; and (B) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section; and (C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b.

2. A participant in the age fifty-five improved benefit retirement program shall contribute additional member contributions only until he or she has twenty-five years of credited CPP qualifying service.

3. (i) Commencing with the first full payroll period after each person becomes a participant in the age fifty-five improved benefit retirement program, additional member contributions at the applicable rate or rates specified in paragraph one of this subdivision for the particular credited CPP qualifying service being rendered shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

(ii) (A) Those portions of the additional member contributions required by paragraph one of this subdivision which are attributable to credited CPP qualifying service rendered on and after the enactment date of the age fifty-five improved benefit retirement program, and prior to the actual commencement of deductions from compensation pursuant to subparagraph (i) of this paragraph, by a person who becomes a participant pursuant to paragraph one of subdivision b of this section, shall be paid by deductions from the compensation of such participant pursuant to and in accordance with the provisions of item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from such participant's compensation are begun pursuant to subparagraph (i) of this paragraph, in addition to such deductions required by such subparagraph (i), there shall be another deduction of additional member contributions made from the compensation of such participant at one-third the applicable rate or rates at which deductions are being made pursuant to such subparagraph (i), subject to the applicable provisions of section 13-125.2 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph, provided, however, that deductions pursuant to this item (B) shall be made only during the period while such person is a participant after first becoming a participant pursuant to paragraph one of subdivision b of this section and before ceasing to be such a participant.

4. In addition to the member contributions required by section 13-125 or section 13-162 of the administrative code or section eight or thirty of the BERS rules and regulations, and the additional member contributions required pursuant to paragraph one of this subdivision, each participant in the age fifty-five improved benefit retirement program who was not a member of either NYCERS or BERS on July first, nineteen hundred ninety-three shall, subject to the provisions of paragraph two of this subdivision, make retroactive additional member contributions to the retirement system of which he or she is a member in

accordance with the following schedule:

(i) each such participant shall contribute an additional four and thirty-five one-hundredths percent of his or her compensation earned from all credited CPP qualifying service rendered prior to the starting date of the age fifty-five improved benefit retirement program (whether or not rendered in a physically taxing position or a New York city eligible position); and

(ii) each such participant who was employed in a physically taxing position as defined in paragraph eleven of subdivision a of this section shall contribute, in addition to the additional member contributions required to be made at the percentage of compensation specified in subparagraph (i) of this paragraph for the credited CPP qualifying service specified in such subparagraph (i), an additional one and ninety-eight one-hundredths percent of his or her compensation earned from that portion of such credited CPP qualifying service which was rendered in a physically taxing position prior to the starting date of the age fifty-five improved benefit retirement program.

5. (i) Each participant in the age fifty-five improved benefit retirement program shall be charged with a contribution deficiency consisting of:

(A) the total amounts of additional member contributions such person is required to make pursuant to paragraph one of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii), (iii) and (iv) of this paragraph; and

(B) the total amounts of retroactive additional member contributions such person is required to make pursuant to paragraph four of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii), (iii) and (iv) of this paragraph.

(ii) (A) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, the interest required to be paid on each such amount specified in items (A) and (B) of subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a

participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph six of this subdivision, no interest shall be due on any unpaid additional member contributions which are attributable to credited CPP qualifying service rendered on or after the starting date of the age fifty-five improved benefit retirement program, but prior to the enactment date of the age fifty-five improved benefit retirement program by a person who becomes a participant pursuant to paragraph one of subdivision b of this section.

(iv) Except as otherwise provided in paragraph six of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

6. (i) (A) Should any person who, pursuant to paragraph twelve of this subdivision, has received a refund of the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph seven of this subdivision), including any interest paid on such employee portion, again become a participant in the age fifty-five improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited CPP qualifying service for which such person received a refund of such employee portion of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph fourteen of this subdivision), as if such employee portion of additional contributions never had been paid.

(B) Any person who has his or her membership in one participating retirement system terminated without transferring such membership

directly from such participating retirement system to the other participating retirement system, who has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time of the termination of such membership, who, pursuant to paragraph five of subdivision b of this section, thereafter again becomes a participant in the age fifty-five improved benefit retirement program as a member of either participating retirement system without having received a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, shall have an appropriate amount included in such participant's contribution deficiency (including interest thereon as calculated in subparagraph (ii) of this paragraph) for any credited CPP qualifying service for which such person borrowed and did not repay such employee portion of additional member contributions, as if such employee portion of additional member contributions never had been paid.

(ii) (A) Interest on the employee portion of a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such employee portion of additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such employee portion of additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

7. (i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated deductions of a member under section 13-125 or 13-162 of the administrative code or section eight or

thirty of the BERS rules and regulations or otherwise while he or she is a participant in the age fifty-five improved benefit retirement program or otherwise.

(ii) All additional member contributions required for any period of credited CPP qualifying service pursuant to paragraph one or four of this subdivision (and any interest paid thereon pursuant to paragraph five of this subdivision) which, pursuant to subparagraph (i) of this paragraph, are paid by a participant, subject to the applicable provisions of section 13-125.2 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, into the contingent reserve fund of the retirement system of which such participant is a member (other than repayments of loans of additional member contributions pursuant to paragraph thirteen of this subdivision or amounts paid in satisfaction of a contribution deficiency calculated in accordance with paragraph six of this subdivision) shall be divided in the following manner:

(A) one-half of such additional member contributions (and any such interest paid thereon) shall be the employer contribution portion of such additional member contributions; and

(B) one-half of such additional member contributions (and any such interest paid thereon) shall be the employee portion of such additional member contributions, and shall be credited to the employee additional contributions account which shall be established for such participant within the contingent reserve fund of such retirement system.

(iii) No person, while he or she is a participant or otherwise, shall at any time be permitted (A) to borrow, pursuant to paragraph thirteen of this subdivision or any other provision, any of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of this paragraph, including any interest paid thereon) which has been paid into the contingent reserve fund of the retirement system; or (B) to receive a refund of any of such employer contribution portion pursuant to paragraph twelve of this subdivision or any other provision.

(iv) None of the employer contribution portion of a participant's additional member contributions (including any interest paid thereon) shall for any purpose (A) be deemed to be part of the employee portion of additional member contributions paid by a participant; or (B) be

credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system.

(v) All repayments of loans of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision and all payments of the employee portion of additional member contributions in satisfaction of a contribution deficiency calculated in accordance with paragraph six of this subdivision which are paid by a participant to the contingent reserve fund of a participating retirement system (and any interest paid thereon) shall be part of the employee portion of such participant's additional member contributions and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such retirement system.

8. Where a person who was a participant in the age fifty-five improved benefit retirement program as a member of one participating retirement system becomes such a participant as a member of the other participating retirement system:

(i) the employer contribution portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) that is attributable to any period of credited CPP qualifying service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system; and

(ii) the employee portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such first retirement system that is attributable to any period of credited CPP qualifying service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for

purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system, and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such second retirement system.

9. A person who was a participant in the age fifty-five improved benefit retirement program as a member of one participating retirement system, who becomes such a participant as a member of the other participating retirement system and who thereafter transfers his or her membership in such first retirement system directly to such second retirement system as such a participant shall be deemed to have the same unpaid balance of a loan of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest) as he or she had in such first retirement system at the time of such transfer of membership to the second retirement system.

10. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs five and six of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of the employee portion of additional member contributions pursuant to subparagraph (iii) of paragraph twelve of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of section 13-162 of the administrative code or section thirty of the BERS rules and regulations shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs five and six of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

11. The board of trustees of NYCERS and the retirement board of BERS may, consistent with the provisions of this subdivision, promulgate regulations for the payment of additional member contributions required by this subdivision, and any interest thereon, by participants in the age fifty-five improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

12. (i) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-five improved benefit retirement program who retires for disability pursuant to section 13-167 or 13-168 of the administrative code or section fifteen or seventeen of the BERS rules and regulations shall be entitled, upon such retirement, to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for disability, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(ii) Subject to the provisions of paragraph fourteen of this subdivision, upon the death of a participant in the age fifty-five improved benefit retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated deductions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, the employee

portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of his or her death, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(iii) Subject to the provisions of paragraph fourteen of this subdivision, a person (A) who is or was a participant in the age fifty-five improved benefit retirement program; (B) who retires for service as a member of NYCERS or BERS pursuant to the applicable service retirement provisions of the administrative code or the BERS rules and regulations; (C) who is in active service on the effective date of retirement; (D) who is at least sixty-two years of age on the effective date of retirement; and (E) who was in active service for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(iv) Subject to the provisions of paragraph fourteen of this subdivision, a person who ceases to be a participant in the age fifty-five improved benefit retirement program as a member of a participating retirement system because he or she ceases to hold a New York city eligible position, who thereafter is employed in another position in public employment which is not a New York city eligible position, but which entitles such person to membership in another public retirement system which is maintained in whole or in part by the city or

state of New York, and who thereafter transfers his or her membership in such participating retirement system directly to such second public retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such participating retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(v) Subject to the provisions of paragraph fourteen of this subdivision, any person who withdraws as a participant in the age fifty-five improved benefit retirement program by filing a valid request for such withdrawal pursuant to subparagraph (ii) of paragraph three of subdivision b of this section shall, upon such withdrawal, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such withdrawal as a participant, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(vi) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-five improved benefit retirement program who has been terminated from employment in a New York city eligible position for economic reasons by his or her public employer shall be entitled, upon such termination, to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such termination from employment, together with interest thereon at the rate of interest required by law to be used

to credit interest on the accumulated deductions of retirement system members, compounded annually.

(vii) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-five improved benefit retirement program (A) who retires for service pursuant to paragraph two of subdivision c of this section; (B) who is in active service as a participant in such program on the effective date of retirement; (C) who, on the effective date of retirement, is at least fifty-five years of age, but less than sixty-two years of age; and (D) who was in active service as a participant in such program for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of only that part of the employee portion of his or her additional member contributions paid pursuant to subparagraph (ii) of paragraph one of this subdivision and subparagraph (ii) of paragraph four of this subdivision (including any interest on such part of such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually, and shall not be entitled to a refund of any part of the employee portion of his or her additional member contributions paid pursuant to subparagraph (i) of paragraph one of this subdivision or subparagraph (i) of paragraph four of this subdivision (or any interest paid on such part of such employee portion of his or her additional member contributions), or any part of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of paragraph seven of this subdivision) paid pursuant to subparagraph (i) or (ii) of paragraph one of this subdivision or subparagraph (i) or (ii) of paragraph four of this subdivision (or any interest paid on such employer contribution portion of his or her additional member contributions).

(viii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any

additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the age fifty-five improved benefit retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise; and (C) no person, while he or she is a participant or otherwise, shall at any time be permitted to withdraw any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph seven of this subdivision), pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

13. A participant in the age fifty-five improved benefit retirement program shall be permitted to borrow from the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph seven of this subdivision, including any interest paid thereon) which is credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system of which he or she is a member. The borrowing from such employee portion of additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this chapter which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The board of trustees of NYCERS and the retirement board of BERS may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this chapter as made applicable to this subdivision, promulgate regulations governing the borrowing of such employee portion of additional member contributions, provided, however, that no person, while he or she is a participant or otherwise, shall at any time be permitted to borrow, pursuant to this paragraph or any other provision, any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of

paragraph seven of this subdivision).

14. Whenever a person has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time he or she becomes entitled to a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such employee portion shall be the net amount of such employee portion, together with interest thereon in accordance with the provisions of paragraph twelve of this subdivision.

15. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

16. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

17. The provisions of subdivision b of section four hundred forty of this article shall apply to participants under this section.

* NB There are 2 § 445-d's

*** § 445-d. Optional twenty-year/age fifty improved benefit retirement program for Triborough bridge and tunnel members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "Triborough bridge and tunnel member" shall mean a member of the

retirement system who is subject to the provisions of this article, who is employed by the Triborough bridge and tunnel authority as a bridge and tunnel officer, sergeant, or lieutenant in a non-managerial position and who has elected to contribute to the retirement system on the basis of a minimum retirement period of twenty-year/age fifty of allowable service rendered pursuant to the optional retirement provisions as set forth in paragraph eight of this subdivision.

3. "Twenty-year/age fifty improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-year/age fifty improved benefit retirement program" shall mean the date of enactment of the act which added this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-year/age fifty improved benefit retirement program" shall mean any Triborough bridge and tunnel member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year/age fifty improved benefit retirement program, as applicable to him or her.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

8. "Optional retirement provisions" shall mean the right to receive a retirement allowance upon (a) the attainment of age fifty, and (b) the completion of twenty years of service.

b. Election of twenty-year/age fifty improved benefit retirement program. 1. Subject to the provisions of paragraph five of this subdivision, any person who is a Triborough bridge and tunnel member on

the starting date of the twenty-year/age fifty improved benefit retirement program may elect to become a participant in the twenty-year/age fifty improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a bridge and tunnel member on the date such application is filed.

2. Subject to the provisions of paragraph five of this subdivision, any person who becomes a Triborough bridge and tunnel member after the starting date of the twenty-year/age fifty improved benefit retirement program may elect to become a participant in the twenty-year/age fifty improved benefit retirement program by filing, within one hundred eighty days after becoming such a bridge and tunnel member, a duly executed application for such participation with the retirement system, provided he or she is such a bridge and tunnel member on the date such application is filed.

3. Any election to be a participant in the twenty-year/age fifty improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-year/age fifty improved benefit retirement program shall cease to hold a position in the Triborough bridge and tunnel service, he or she shall cease to be such a participant and, during any period in which such a person does not hold such a bridge and tunnel position, he or she shall not be a participant in the twenty-year/age fifty improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-year/age fifty improved benefit retirement program terminates service in the Triborough bridge and tunnel service and returns to such service as a bridge and tunnel member at a later date, he or she shall again become such a participant on that date.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-year/age fifty

improvement benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid, while he or she is a Triborough bridge and tunnel member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this chapter; and

2. if that participant, while such a participant, retires from service, he or she shall not be subject to the provisions of section four hundred forty-four of this chapter; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to one-half of his or her final average salary, plus an amount for each additional year of allowable service, or fraction thereof, beyond such required minimum period of service equal to one and one-half percent of his or her final average salary; and

4. the maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-162 of the administrative code, each participant in the twenty-year/age fifty improved benefit retirement program in the rank of bridge and tunnel officer shall contribute an additional five and fifty one-hundredths percent of his or her compensation and each participant in the twenty-year/age fifty retirement program in the rank of sergeant or lieutenant shall contribute to the retirement system an additional six percent of his or her compensation earned from all allowable service as a Triborough bridge and tunnel member rendered on and after the date which is one

hundred eighty days prior to the starting date of the twenty-year/age fifty improved benefit retirement program. A participant in the twenty-year/age fifty improved benefit retirement program shall contribute additional member contributions until the latest of (i) the date as of which he or she is eligible to retire with twenty years of creditable service in the Triborough bridge and tunnel authority under such retirement program, (ii) the third anniversary of the starting date of the twenty-year/age fifty improved benefit retirement program, or (iii) the third anniversary of the date that he or she became a participant in the twenty-year/age fifty improved benefit retirement program.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-year/age fifty improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.2 of the administrative code of the city of New York) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system; and

(C) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same

period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year/age fifty improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

(iv) Notwithstanding any other provisions of this paragraph, no participant shall be charged interest for any period prior to March twenty-fifth, nineteen hundred ninety-eight with respect to any contributions owed with respect to any payroll period beginning prior to such date.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by a participant in the twenty-year/age fifty improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a Triborough bridge and tunnel member, that participant shall not be entitled to the benefits provided in subdivision c of this section.

6. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions

pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

6-a. Notwithstanding paragraph five or six of this subdivision, where a deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a Triborough bridge and tunnel member and such participant retires prior to July first, two thousand seven, such participant may elect to be covered by this paragraph. Such participant shall be entitled to the benefits provided in subdivision c of this section provided that participant authorizes the retirement system to deduct from such benefits an amount which will result in the deficiency, plus associated interest to date of final payment, being paid in full no later than July first, two thousand seven or such earlier date as agreed to by the participant. Such amount will be deducted in equal installments on a monthly basis. Nothing in this paragraph shall prevent the participant from making a partial payment of the amount of the deficiency at the time of retirement so as to reduce the monthly payment nor to make a lump sum payment equal to the amount of the total unpaid balance at any time during the period of repayment.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be accumulated deductions of a member of the retirement system while he or she is a participant in the twenty-year/age fifty improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-year/age fifty improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold a position in such uniformed force for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him

or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon equal to eight and one-quarter percent per annum, compounded annually.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, no member of the retirement system, while he or she is a participant in such retirement program or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

8. A member who has made the additional contributions specified by this subdivision may borrow a portion of such contributions, pursuant to the provisions of section six hundred thirteen-b of this chapter.

9. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

10. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

* NB There are 2 § 445-d's

*** § 445-e. Optional twenty-five year improved benefit retirement program for dispatcher members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "Dispatcher member" shall mean a member of the retirement system who is subject to the provisions of this article, who is employed by the city of New York as a fire alarm dispatcher, a supervising fire alarm dispatcher, level one, a supervising fire alarm dispatcher, level two, director of dispatch operations, or deputy director of dispatch

operations.

3. "Twenty-five year improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-five year improved benefit retirement program" shall mean the date of enactment of this section.

5. "Participant in the twenty-five year improved benefit retirement program" shall mean any dispatcher member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year improved benefit retirement program, as applicable to him or her.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code of the city of New York.

8. "Optional retirement provisions" shall mean the right to retire and receive a retirement allowance under this section upon the completion of twenty-five years of allowable service as a dispatcher member.

9. "Allowable service as a dispatcher member" shall mean (i) service as a dispatcher member and all service in the following civil service titles: chief fire alarm dispatcher, administrative fire alarm dispatcher, bus operator (transit), train dispatcher (transit), firefighter, police officer, correction officer, fire marshal, probation officer, police communications technician, supervising police communications technician, principal police communications technician, police administrative aide, senior police administrative aide, emergency medical technician, advanced emergency medical technician, emergency medical service specialist level I, emergency medical specialist level II, fire prevention inspector, fire protection inspector, senior fire

prevention inspector, principal fire prevention inspector, associate fire protection inspector, county detective, detective (NYPD), detective investigator, senior detective investigator, deputy sheriff, senior deputy sheriff, inspector of fire alarm boxes, radio operator, radio repair technician, supervisor of radio repair operations, taxi and limousine inspector, senior taxi and limousine inspector, triborough bridge and tunnel officer; and(ii) a member of the retirement system who is employed by the city of New York in a title whose duties require the supervision of employees whose civil service title is included in subparagraph (i) of this paragraph.

b. Election of twenty-five year improved benefit retirement program.

1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is a dispatcher member on the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a dispatcher member on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes a dispatcher member after the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after becoming such a dispatcher member, a duly executed application for such participation with the retirement system, provided he or she is such a dispatcher member on the date such application is filed.

3. Any election to be a participant in the twenty-five year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-five year improved benefit retirement program shall cease to hold a position as a dispatcher member, he or she shall cease to be such a participant and, during any

period in which such a person does not hold such a dispatcher position, he or she shall not be a participant in the twenty-five year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-five year improved benefit retirement program terminates service as a dispatcher member and returns to such service as a dispatcher member at a later date, he or she shall again become such a participant on that date.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid, while he or she is a dispatcher member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant, while such a participant, retires for service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an

annuity which shall be the actuarial equivalent of the accumulated deductions for his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty percent of his or her final average salary, plus an amount for each additional year of allowable service as a dispatcher member, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary for such allowable service as a dispatcher member during the period from completion of twenty-five years of allowable service as a dispatcher member to the date of retirement but not to exceed more than five years of additional service as a dispatcher member.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-125 or section 13-162 of the administrative code of the city of New York, each participant in the twenty-five year improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code of the city of New York, an additional six percent of his or her compensation earned from all allowable service, as a participant in the twenty-five year improved benefit retirement program, rendered on and after the starting date of the improved benefit retirement program, and all allowable service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year improved benefit retirement program shall contribute additional member contributions until the later of the date as of which he or she is eligible to retire with thirty years of allowable service under such retirement program, or the first anniversary of the starting date of the twenty-five year improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision (d) of section four hundred forty-five-d of this chapter, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to

this section shall be required to pay additional contributions pursuant to such subdivision (d) of section four hundred forty-five-d of this chapter.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code of the city of New York, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deductions had been required for such payroll period until such amount is paid to the retirement system; and

(C) (1) interest on each such amount included in such participant's contribution deficiency pursuant to this subparagraph shall be calculated as if such additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(2) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same

period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to this paragraph) for any credited service with respect to which such person received a refund of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph seven of this subdivision), as if such additional member contributions never had been paid.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of the additional member contributions required by this subdivision, and any interest thereon, by a participant in the twenty-five year improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of additional member

contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan).

6. Subject to the provisions of paragraph five of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be member contributions or accumulated deductions of a member of the retirement system under section 13-125 or section 13-162 of the administrative code of the city of New York while he or she is a participant in the twenty-five year improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold a position as a dispatcher member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to

the retirement system) which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year improved benefit retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

8. A participant in the twenty-five year improved benefit retirement program shall be permitted to borrow from his or her additional member contributions, including any interest paid thereon, which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this chapter which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this chapter as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

9. Wherever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph seven of this subdivision, the amount of such unpaid loan

balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph.

10. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

11. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

e. The provisions of this section shall not be construed to provide benefits to any participant in the twenty-five year improved benefit retirement program which are greater than those which would be received by a similarly situated member who is entitled to benefits under the provisions of section 13-157.2 of the administrative code of the city of New York, but who is not governed by the provisions of this article.

* NB There are 2 § 445-e's

*** § 445-e. Optional twenty-five year improved benefit retirement program for EMT members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "EMT member" shall mean a member of the retirement system who is employed by the city of New York or by the New York city health and hospitals corporation in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or in a title whose duties require the supervision of employees

whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law).

3. "Twenty-five year improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-five year improved benefit retirement program" shall mean the date of enactment of this section.

5. "Participant in the twenty-five year improved benefit retirement program" shall mean any EMT member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year improved benefit retirement program, as applicable to him or her.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code of the city of New York.

8. "Optional retirement provisions" shall mean the right to retire and receive a retirement allowance under this section upon the completion of twenty-five years of allowable service as an EMT member.

9. "Allowable service as an EMT member" shall mean (i) all service as an EMT member; and (ii) all service while employed by the city of New York or by the New York city health and hospitals corporation in the title motor vehicle operator.

b. Election of twenty-five year improved benefit retirement program.

1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is an EMT member on the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement

program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such an EMT member on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes an EMT member after the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after becoming such an EMT member, a duly executed application for such participation with the retirement system, provided he or she is such an EMT member on the date such application is filed.

3. Any election to be a participant in the twenty-five year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-five year improved benefit retirement program shall cease to hold a position as an EMT member, he or she shall cease to be such a participant and, during any period in which such a person does not hold such an EMT position, he or she shall not be a participant in the twenty-five year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-five year improved benefit retirement program terminates service as an EMT member and returns to such service as an EMT member at a later date, he or she shall again become such a participant on that date.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such

program.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid, while he or she is an EMT member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant, while such a participant, retires for service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an annuity which shall be the actuarial equivalent of the accumulated deductions for his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty percent of his or her final average salary, plus an amount for each additional year of allowable service as an EMT member, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary for such allowable service as an EMT member during the period from completion of twenty-five years of allowable service as an EMT member to the date of retirement but not to exceed more than five years of additional service as an EMT member.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-125 or 13-162 of the

administrative code of the city of New York, each participant in the twenty-five year improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code of the city of New York, an additional six and twenty-five one-hundredths percent of his or her compensation earned from all allowable service as an EMT member, as a participant in the twenty-five year improved benefit retirement program, rendered on and after the starting date of the improved benefit retirement program, and all allowable service as an EMT member after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year improved benefit retirement program shall contribute additional member contributions until the later of the date as of which he or she is eligible to retire with thirty years of allowable service as an EMT member under such retirement program, or the first anniversary of the starting date of the twenty-five year improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this chapter, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this chapter.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code of the city of New York, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this

subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deductions had been required for such payroll period until such amount is paid to the retirement system; and

(C) (1) interest on each such amount included in such participant's contribution deficiency pursuant to this subparagraph shall be calculated as if such additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(2) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to this paragraph) for any credited service with respect to which such person received a refund of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph seven of this subdivision), as if such additional member

contributions never had been paid.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of the additional member contributions required by this subdivision, and any interest thereon, by a participant in the twenty-five year improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of additional member contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan).

6. Subject to the provisions of paragraph five of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions

pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be member contributions or accumulated deductions of a member of the retirement system under section 13-125 or 13-162 of the administrative code of the city of New York while he or she is a participant in the twenty-five year improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold a position as an EMT member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year improved benefit retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

8. A participant in the twenty-five year improved benefit retirement

program shall be permitted to borrow from his or her additional member contributions, including any interest paid thereon, which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this chapter which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this chapter as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

9. Wherever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph seven of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph.

10. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

11. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

e. The provisions of this section shall not be construed to provide benefits to any participant in the twenty-five year improved benefit retirement program which are greater than those which would be received

by a similarly situated member who is entitled to benefits under the provisions of section 13-157.2 of the administrative code of the city of New York, but who is not governed by the provisions of this article.

* NB There are 2 § 445-e's

*** § 445-f. Optional twenty-five year improved benefit retirement program for deputy sheriff members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "Deputy sheriff member" shall mean a member of the retirement system who is subject to the provisions of this article, who is employed by the city of New York as a deputy city sheriff level one, deputy city sheriff level two, supervising deputy sheriff or administrative sheriff.

3. "Twenty-five year improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-five year improved benefit retirement program" shall mean the date of enactment of this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-five year improved benefit retirement program" shall mean any deputy sheriff member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year improved benefit retirement program, as applicable to him or her.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Accumulated deductions" shall mean accumulated deductions as

defined in subdivision eleven of section 13-101 of the administrative code.

8. "Optional retirement provisions" shall mean the right to retire and receive a retirement allowance under this section upon the completion of twenty-five years of credited service.

b. Election of twenty-five year improved benefit retirement program.

1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is a deputy sheriff member on the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a deputy sheriff member on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes a deputy sheriff member after the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after becoming such a deputy sheriff member, a duly executed application for such participation with the retirement system, provided he or she is such a deputy sheriff member on the date such application is filed.

3. Any election to be a participant in the twenty-five year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-five year improved benefit retirement program shall cease to hold a position as a deputy sheriff member, he or she shall cease to be such a participant and, during any period in which such a person does not hold such a deputy sheriff position, he or she shall not be a participant in the twenty-five year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-five year improved benefit retirement program terminates service as a deputy sheriff member and returns to such service as a deputy sheriff member at a later date, he or she shall again become such a participant on that date.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid, while he or she is a deputy sheriff member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant, while such a participant, retires for service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an annuity which shall be the actuarial equivalent of the accumulated deductions from his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled

for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty-five percent of his or her final average salary, plus an amount for each additional year of allowable service, or fraction thereof, beyond such required minimum period of service equal to one and seven-tenths percent of his or her final average salary; and

4. the maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-125 or section 13-162 of the administrative code, each participant in the twenty-five year improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code, an additional six and three-quarters percent of his or her compensation earned from (i) all credited service, as a participant in the twenty-five year improved benefit retirement program, rendered on and after the starting date of the improved benefit retirement program, and (ii) all credited service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year improved benefit retirement program shall contribute additional member contributions until the later of (i) the date as of which he or she is eligible to retire with twenty-five years of credited service under such retirement program, or (ii) the first anniversary of the starting date of the twenty-five year improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this article.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deductions had been required for such payroll period until such amount is paid to the retirement system; and

(C) (1) interest on each such amount included in such participant's contribution deficiency pursuant to this subparagraph shall be calculated as if such additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(2) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are

not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subclause two of clause (C) of subparagraph (i) of this paragraph) for any credited service with respect to which such person received a refund of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph seven of this subdivision), as if such additional member contributions never had been paid.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of the additional member contributions required by this subdivision, and any interest thereon, by a participant in the twenty-five year improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of additional member contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to the amount of any

unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision.

6. Subject to the provisions of paragraph five of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be member contributions or accumulated deductions of a member of the retirement system under section 13-125 or section 13-162 of the administrative code while he or she is a participant in the twenty-five year improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year improved benefit retirement program, who has rendered less than five years of credited service cease to hold a position as a deputy sheriff member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the

preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year improved benefit retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

8. No member of the retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon) which are required by this subdivision.

9. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

10. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

* NB There are 3 § 445-f's

*** § 445-f. Optional twenty-five year/age fifty improved benefit retirement program for senior automotive service workers, automotive service workers, auto body workers, auto mechanics, marine maintenance mechanics and oil burner specialists.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "Senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic and oil burner specialist" shall mean a member of the retirement system who is subject to the provisions of this article, who is employed by the mayoral and non-mayoral agencies of the city of New York and who has elected to contribute to the retirement system on the basis of a minimum retirement

period of twenty-five year/age fifty of allowable service rendered pursuant to the optional retirement provisions as set forth in paragraph eight of this subdivision.

3. "Twenty-five year/age fifty improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-five year/age fifty improved benefit retirement program" shall mean the effective date of this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-five year/age fifty improved benefit retirement program" shall mean any senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic and oil burner specialist who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year/age fifty improved benefit retirement program, as applicable to him or her.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

8. "Optional retirement provisions" shall mean the right to receive a retirement allowance upon (i) the attainment of age fifty, and (ii) the completion of twenty-five years of service.

b. Election of twenty-five year/age fifty improved benefit retirement program. 1. Subject to the provisions of paragraph five of this subdivision, any person who is a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic, or oil burner specialist on the starting date of

the twenty-five year/age fifty improved benefit retirement program may elect to become a participant in the twenty-five year/age fifty improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist on the date such application is filed.

2. Subject to the provisions of paragraph five of this subdivision, any person who becomes a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist after the starting date of the twenty-five year/age fifty improved benefit retirement program may elect to become a participant in the twenty-five year/age fifty improved benefit retirement program by filing, within one hundred eighty days after becoming such a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist, a duly executed application for such participation with the retirement system, provided he or she is such a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist on the date such application is filed.

3. Any election to be a participant in the twenty-five year/age fifty improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-five year/age fifty improved benefit retirement program shall cease to hold a position as a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist, he or she shall cease to be such a participant and, during any period in which such a person does not hold such a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist position, he or she shall not be a participant in the twenty-five year/age fifty improved benefit retirement program and shall not be eligible for the benefits of

subdivision c of this section.

5. Where any participant in the twenty-five year/age fifty improved benefit retirement program terminates service as a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist and returns to such service as a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist at a later date, he or she shall again become such a participant on that date.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year/age fifty improvement benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid, while he or she is a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant, while such a participant, retires from service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to one-half of his or her final average salary, plus an amount for each additional year of allowable service, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary; and

4. the maximum retirement benefit computed without optional

modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-162 of the administrative code, each participant in the twenty-five year/age fifty improved benefit retirement program in the title of senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist shall contribute an additional four and eighty-three one-hundredths percent of his or her compensation earned from all allowable service as a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist rendered on and after the date which is one hundred eighty days prior to the starting date of the twenty-five year/age fifty improved benefit retirement program. A participant in the twenty-five year/age fifty improved benefit retirement program shall contribute additional member contributions until the later of (i) the date as of which he or she is eligible to retire with twenty-five years of creditable service as a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist under such retirement program, or (ii) the first anniversary of the starting date of the twenty-five year/age fifty improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this article.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year/age fifty improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted from

the compensation of such participant on each and every payroll of such participant for each and every payroll period.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeductible contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system; and

(C) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year/age fifty improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest

thereon, by a participant in the twenty-five year/age fifty improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist, that participant shall not be entitled to the benefits provided in subdivision c of this section.

6. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be accumulated deductions of a member of the retirement system while he or she is a participant in the twenty-five year/age fifty improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year/age fifty improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold a position as a senior automotive service worker, automotive service worker, auto body worker, auto mechanic, marine maintenance mechanic or oil burner specialist for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to

procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon equal to eight and one-quarter percent per annum, compounded annually.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, no member of the retirement system, while he or she is a participant in such retirement program or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

8. A member who has made the additional contributions specified by this subdivision may borrow a portion of such contributions pursuant to the provisions of section six hundred thirteen-b of this chapter.

9. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

10. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

* NB Rpld per ch 414/02, § 1. § 480 of Retirement and Social Security Law (as amended by ch. 35/2005 § 2) extends disability benefits implemented by former § 63-c.

* NB There are 3 § 445-f's

*** § 445-f. Optional twenty-five year improved benefit retirement program for special officer, parking control specialist, school safety agent, campus peace officer, and New York city taxi and limousine inspector members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system or the New York city board of education retirement system.

2. "Special officers" shall mean all peace officers who are special officers of any rank employed by a mayoral agency of the city of New York or the New York city health and hospitals corporation or the city of New York housing authority, and shall include all persons who are employed by the city of New York in the title urban park ranger or associate urban park ranger.

3. "Parking control specialist" shall mean a peace officer employed by the New York city department of transportation as a parking control specialist.

4. "School safety agent" shall mean a peace officer employed as a school safety agent of any rank employed by the New York city police department or the board of education of the city of New York.

5. "Campus peace officer" shall mean a peace officer employed as a campus peace officer of any rank employed by the city university of New York.

6. "Taxi and limousine inspector" shall mean a peace officer of any rank employed by the New York city taxi and limousine commission.

7. "Twenty-five year improved benefit retirement program" shall mean all the terms and conditions of this section; provided that, for persons who are employed by the city of New York in the title urban park ranger and associate urban park ranger "starting date of the twenty-five year retirement program" shall mean the effective date of the amendment to paragraph two of this subdivision made in section four of the chapter of the laws of two thousand three which amended this paragraph.

8. "Starting date of the twenty-five year improved benefit retirement program" shall mean the date of enactment of this section.

9. "Participant in the twenty-five year improved benefit retirement program" shall mean any special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine

inspector member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year improved benefit retirement program, as applicable to him or her.

10. "Administrative code" shall mean the administrative code of the city of New York.

11. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

12. "Optional retirement provisions" shall mean the right to retire and receive a retirement allowance under this section upon the completion of twenty-five years of allowable service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member.

13. "Allowable service" as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member shall mean all service while employed by the city of New York or by the New York city health and hospitals corporation, the New York city board of education, the city university of New York, the New York city taxi and limousine commission or the city of New York housing authority in a title whose duties are those of a peace officer under the criminal procedure law.

b. Election of twenty-five year improved benefit retirement program.

1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member on the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided

he or she is such a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member after the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after becoming such a special officer, parking control specialist, school safety agent, campus peace officer and taxi and limousine inspector member, a duly executed application for such participation with the retirement system, provided he or she is such a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member on the date such application is filed.

3. Any election to be a participant in the twenty-five year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-five year improved benefit retirement program shall cease to hold a position as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member, he or she shall cease to be such a participant and, during any period in which such a person does not hold such a position, he or she shall not be a participant in the twenty-five year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-five year improved benefit retirement program terminates service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member and returns to such service as such a member at a later date, he or she shall again become such a participant on that date.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid, while he or she is a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant, while such a participant, retires for service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an annuity which shall be the actuarial equivalent of the accumulated deductions for his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty percent of his or her final average salary, plus an amount for each additional year of allowable service as a

special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary for such allowable service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member during the period from completion of twenty-five years of allowable service as such a member to the date of retirement but not to exceed more than five years of additional service as such a member.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-125 or section 13-162 of the administrative code, each participant in the twenty-five year improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code, an additional six and twenty-five one hundredths percent of his or her compensation earned from all allowable service, as a participant in the twenty-five year improved benefit retirement program, rendered on and after the starting date of the improved benefit retirement program, and all allowable service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year improved benefit retirement program shall contribute additional member contributions until the later of the date as of which he or she is eligible to retire with thirty years of allowable service under such retirement program, or the first anniversary of the starting date of the twenty-five year improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this article.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year improved benefit

retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deductions had been required for such payroll period until such amount is paid to the retirement system; and

(C) (1) interest on each such amount included in such amount included in such participant's contribution deficiency pursuant to this subparagraph shall be calculated as if such additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(2) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to this paragraph) for any credited service with respect to which such person received a refund of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph seven of this subdivision), as if such additional member contributions never had been paid.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of the additional member contributions required by this subdivision, and any interest thereon, by a participant in the twenty-five year improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of additional member contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity, calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter, which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan).

6. Subject to the provisions of paragraph five of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions, and any interest thereon, shall not for any purpose be deemed to be member contributions or accumulated deductions of a member of the retirement system under section 13-125 or section 13-162 of the administrative code while he or she is a participant in the twenty-five year improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold a position as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision, together with any interest thereon paid to the retirement system, which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system

members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year improved benefit retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

8. A participant in the twenty-five year improved benefit retirement program shall be permitted to borrow from his or her additional member contributions, including any interest paid thereon, which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this chapter which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this chapter as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

9. Wherever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph seven of this subdivision, the amount of such unpaid loan balance, including accrued interest, shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph.

10. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

11. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home pay.

e. The provisions of this section shall not be construed to provide benefits to any participant in the twenty-five year improved benefit retirement program which are greater than those which would be received by a similarly situated member who is entitled to benefits under the provisions of section 13-157.3 of the administrative code, but who is not governed by the provisions of this article.

* NB There are 3 § 445-f's

§ 445-g. Optional twenty-five year/age fifty improved benefit retirement program for automotive members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "Automotive member" shall mean a member of the retirement system employed by the mayoral and non-mayoral agencies of the city of New York as a senior automotive service worker, an automotive service worker, an auto body worker, an auto mechanic, a marine maintenance mechanic, an oil burner specialist, a supervisor of mechanics (mechanical equipment), senior stationary engineer, stationary engineer, auto mechanic (diesel), auto electrician, auto machinist, machinist or machinist helper.

3. "Twenty-five year/age fifty improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-five year/age fifty improved benefit retirement program" shall mean, with respect to supervisors of mechanics (mechanical equipment), the effective date of an act amending chapter five hundred sixty of the laws of two thousand one, as such date is certified pursuant to section forty-one of the legislative law, and shall mean December twelfth, two thousand one with respect to all other automotive members.

5. "Participant in the twenty-five year/age fifty improved benefit retirement program" shall mean any automotive member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year/age fifty improved benefit retirement program, as applicable to him or her.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

8. "Optional retirement provisions" shall mean the right to retire and receive a retirement allowance under this section upon (i) the attainment of age fifty and (ii) the completion of twenty-five years of credited service.

b. Election of twenty-five year/age fifty improved benefit retirement program. 1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is an automotive member on the starting date of the twenty-five year/age fifty improved benefit retirement program may elect to become a participant in the twenty-five year/age fifty improved benefit retirement program by filing, within two hundred seventy days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such an automotive member on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes an automotive member after the starting date of the twenty-five year/age fifty improved benefit retirement program may elect to become a participant in the twenty-five year/age fifty improved benefit retirement program by filing, within two hundred seventy days after becoming such an automotive member, a duly executed application for such participation with the retirement system, provided he or she is such an automotive member on the date such application is filed.

3. Any election to be a participant in the twenty-five year/age fifty improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-five/age fifty improved benefit retirement program shall cease to hold a position as an automotive member, he or she shall cease to be such a participant and during any period in which such a person does not hold such an automotive position, he or she shall not be a participant in the twenty-five year/age fifty improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-five year/age fifty improved benefit retirement program terminates service as an automotive member and returns to such service as an automotive member at a later date, he or she shall again become such a participant on that date.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to become a participant in the twenty-five year/age fifty improved benefit retirement program pursuant to paragraph one or two of this subdivision for the full two hundred seventy day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year/age

fifty improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid while he or she is an automotive member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant while such a participant, retires from service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an annuity which shall be the actuarial equivalent of the accumulated deductions from his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty percent of his or her final average salary, plus an amount for each additional year of allowable service, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary; and

4. the maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-125 or 13-162 of the administrative code, each participant in the twenty-five year/age fifty improved benefit retirement program shall contribute, subject to the

applicable provisions of section 13-125.2 of the administrative code, an additional four and eighty-three one-hundredths percent of his or her compensation earned from (i) all credited service, as a participant in the twenty-five year/age fifty improved benefit retirement program, rendered on and after the date which is one hundred eighty days prior to the starting date of the improved benefit retirement program, and (ii) all credited service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year/age fifty improved benefit retirement program shall contribute additional member contributions until the later of (i) the date as of which he or she is eligible to retire with twenty-five years of credited service under such retirement program, or (ii) the first anniversary of the starting date of the twenty-five year/age fifty improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this article.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year/age fifty improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision.

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deductions had been required for such payroll period until such amount is paid to the retirement system; and

(C) Interest on each such amount included in such participant's contribution deficiency pursuant to this subparagraph (i) shall be calculated as if such additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(ii) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as provided in subparagraph (iv) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iv) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year/age fifty improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service with respect to which such person received a refund of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph seven of this subdivision), as if such additional member contributions never had been paid.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of the additional member contributions required by this subdivision, and any interest thereon, by a participant in the twenty-five year/age fifty improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not prior to the effective date of retirement pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan), that participant nevertheless shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of additional member contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan).

6. Subject to the provisions of paragraph five of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to

the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system, shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be member contributions or accumulated deductions of a member of the retirement system under section 13-125 or 13-162 of the administrative code while he or she is a participant in the twenty-five year/age fifty improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year/age fifty improved benefit retirement program, who has rendered less than five years of credited service cease to hold a position as an automotive member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year/age fifty improved benefit retirement program shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

8. A participant in the twenty-five year/age fifty improved benefit retirement program shall be permitted to borrow from his or her additional member contributions including any interest paid thereon,

which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this chapter which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this chapter as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

9. Wherever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph seven of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph.

10. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

11. Notwithstanding any other provisions of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

§ 445-h. Optional twenty-five year improved benefit retirement program for police communications members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "Police communications member" shall mean a member of the retirement system employed by the police department as a police communications technician, a supervising police communications technician or a principal police communications technician.

3. "Twenty-five year improved benefit retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-five year improved benefit retirement program" shall mean the date of enactment of this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-five year improved benefit retirement program" shall mean any police communications member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year improved benefit retirement program, as applicable to him or her.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

8. "Optional retirement provisions" shall mean the right to retire and receive a retirement allowance under this section upon the completion of twenty-five years of credited service.

b. Election of twenty-five year improved benefit retirement program.

1. Subject to the provisions of paragraphs five and six of this

subdivision, any person who is a police communications member on the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a police communications member on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes a police communications member after the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after becoming such a police communications member, a duly executed application for such participation with the retirement system, provided he or she is such a police communications member on the date such application is filed.

3. Any election to be a participant in the twenty-five year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-five year improved benefit retirement program shall cease to hold a position as a police communications member, he or she shall cease to be such a participant and, during any period in which such a person does not hold such a police communications position, he or she shall not be a participant in the twenty-five year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-five year improved benefit retirement program terminates service as a police communications member and returns to such service as a police communications member at a later date, he or she shall again become such a participant on that date.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph one or two of

this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provisions set forth in subdivision a of this section, has made and/or paid, while he or she is a police communications member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. that participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. if that participant, while such a participant, retires from service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an annuity which shall be the actuarial equivalent of the accumulated deductions from his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty percent of his or her final average salary, plus an amount for each additional year of allowable service, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary; and

4. the maximum retirement benefit computed without optional

modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-125 or section 13-162 of the administrative code, each participant in the twenty-five year improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code, an additional six percent of his or her compensation earned from (i) all credited service, as a participant in the twenty-five year improved benefit retirement program, rendered on and after the starting date of the improved benefit retirement program, and (ii) all credited service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year improved benefit retirement program shall contribute additional member contributions until the later of (i) the date as of which he or she is eligible to retire with twenty-five years of credited service under such retirement program, or (ii) the first anniversary of the starting date of the twenty-five year improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this article.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deductions had been required for such payroll period until such amount is paid to the retirement system; and

(C) (1) interest on each such amount included in such participant's contribution deficiency pursuant to this subparagraph shall be calculated as if such additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(2) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest

thereon as calculated pursuant to subclause two of clause (C) of subparagraph (i) of this paragraph) for any credited service with respect to which such person received a refund of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph seven of this subdivision), as if such additional member contributions never had been paid.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of the additional member contributions required by this subdivision, and any interest thereon, by a participant in the twenty-five year improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of additional member contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan).

6. Subject to the provisions of paragraph five of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be member contributions or accumulated deductions of a member of the retirement system under section 13-125 or section 13-162 of the administrative code while he or she is a participant in the twenty-five year improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year improved benefit retirement program, who has rendered less than five years of credited service cease to hold a position as a police communications member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year improved benefit

retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

8. A participant in the twenty-five year improved benefit retirement program shall be permitted to borrow from his or her additional member contributions, including any interest paid thereon, which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this chapter which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this chapter as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

9. Wherever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph seven of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph.

10. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

11. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision

shall not be reduced under any program for increased-take-home-pay.

§ 445-i. Optional age fifty-five retirement program for New York city teachers and certain other members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "TRS" shall mean the New York city teachers' retirement system.
2. "BERS" shall mean the board of education retirement system of the city of New York.
3. "Administrative code" shall mean the administrative code of the city of New York.
4. "BERS rules and regulations" shall mean the rules and regulations for the government, management and control of BERS adopted pursuant to section twenty-five hundred seventy-five of the education law.
5. "New York city eligible position" shall mean:
 - (i) with respect to members of TRS, all positions as a teacher (as defined in subdivision seven of section 13-501 of the administrative code), and shall not include any position covered by section 13-563 of the administrative code; or
 - (ii) with respect to members of BERS, the following positions in education service: head nurses, head nurses (BOE), supervisors of nurses, staff nurses, registered nurses (BOE), public health nurses, pediatric nurse associates, supervising therapists, senior occupational therapists, senior occupational therapists (BOE), occupational therapists, occupational therapists (BOE), senior physical therapists, senior physical therapists (BOE), physical therapists, physical therapists (BOE), substitute vocational assistants, non-annualized adult education teachers, non-annualized adult education assistant coordinators, non-annualized adult education coordinators, directors of drug and alcohol programs, assistant directors of drug and alcohol programs, sign language interpreters, teachers of military science,

senior army, navy, air force, aerospace, marine corps or coast guard instructors, army, navy, air force, aerospace, marine corps or coast guard instructors, youth development specialists and the following positions represented by the recognized teacher organization for collective bargaining purposes: education administrators, education officers, associate education officers, education analysts and associate education analysts.

6. "New York city eligible member" shall mean a member of TRS or BERS who is subject to the provisions of this article and who is employed in a New York city eligible position.

7. "Age fifty-five retirement program" shall mean all the terms and conditions of this section.

8. "Starting date of the age fifty-five retirement program" shall mean the commencement date of the first payroll period which begins after the enactment date of the age fifty-five retirement program.

9. "Enactment date of the age fifty-five retirement program" shall mean the date this section takes effect.

10. "Participant in the age fifty-five retirement program" shall mean any New York city eligible member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the age fifty-five retirement program, as applicable to him or her.

11. "Participating retirement system" shall mean TRS or BERS.

12. "Active service" shall mean, for a member of TRS, service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) for which such member is being paid on the payroll or, for a member of BERS, education service for which such member is being paid on the payroll.

13. "Education service" shall mean service as a paid official or

employee of the board of education of the city of New York or the New York city school construction authority, and allowable pursuant to the applicable provisions which govern the service credit of a member of BERS.

b. Participation in age fifty-five retirement program. 1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is a New York city eligible member in active service on the enactment date of the age fifty-five retirement program may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after such enactment date, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes a New York city eligible member in active service after the enactment date of the age fifty-five retirement program may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

3. (i) Except as provided in subparagraph (ii) of this paragraph, any election to be a participant in the age fifty-five retirement program shall be irrevocable.

(ii) Notwithstanding any other provision of law to the contrary, any participant in the age fifty-five retirement program whose age and amount of credited service (which amount of credited service shall, for the limited purposes only of this subparagraph, include service rendered previous to becoming a member which is not yet credited, but for which such person is or may become eligible to obtain service credit pursuant to applicable provisions of law) at the time of first becoming such a participant are such that he or she could not possibly be able to accumulate a total of at least twenty-five years of credited service by

the time he or she reaches age sixty-two, assuming such person were to earn a full year of credited service in each and every year until he or she becomes sixty-two years of age (whether or not such person actually intends to earn such amounts of credit), may withdraw from the age fifty-five retirement program by filing, within three hundred sixty-five days after first becoming such a participant, a written request to withdraw from such program with the retirement system of which such person is a member.

4. Where any participant in the age fifty-five retirement program shall cease to hold a New York city eligible position, he or she shall cease to be such a participant and, during any period in which such person is not a New York city eligible member, he or she shall not be a participant in the age fifty-five retirement program.

5. Where any participant in the age fifty-five retirement program terminates service in a New York city eligible position and returns to service in a New York city eligible position at a later date and again becomes a New York city eligible member, he or she shall again become such a participant upon becoming a New York city eligible member.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the age fifty-five retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty-day period provided for in such applicable paragraph, and who fails to timely file a duly executed application for such participation with the appropriate retirement system, shall not thereafter be eligible to become a participant in such program.

c. 1. Service retirement. Notwithstanding any other provision of law to the contrary, a participant in the age fifty-five retirement program:

(i) who is otherwise eligible to retire for service with immediate payability of a retirement allowance pursuant to the applicable service retirement provisions of the administrative code or the BERS rules and regulations; and

(ii) who has completed twenty-five or more years of credited service;

and

(iii) who has attained age fifty-five; and

(iv) who, subject to the provisions of paragraph nine of subdivision d of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision d of this section; and

(v) who shall be a participant in the age fifty-five retirement program in active service at the time so specified for his or her retirement; shall, subject to the provisions of paragraph nine of subdivision d of this section, be permitted to retire pursuant to the applicable service retirement provisions of the administrative code or the BERS rules and regulations with a minimum retirement age of fifty-five, and the benefit reduction provisions set forth in subdivision a of section four hundred forty-two of this article shall not be applied to the calculation of such participant's retirement benefit, provided, however, that no such participant who otherwise meets the retirement eligibility requirements of this paragraph shall be permitted to retire pursuant to this paragraph prior to June thirtieth, two thousand eight.

2. Vesting. (i) A participant in the age fifty-five retirement program:

(A) who, on or after June thirtieth, two thousand eight, as such a participant in such retirement program, discontinues service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) or discontinues education service (as defined in paragraph thirteen of subdivision a of this section), other than by death or retirement; and

(B) who, prior to such discontinuance, completed twenty-five or more years of credited service; and

(C) who, subject to the provisions of paragraph nine of subdivision d of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision d of this section; and

(D) who does not withdraw in whole or in part his or her accumulated deductions pursuant to the applicable provisions of the administrative code or the BERS rules and regulations unless such participant

thereafter returns to public service and repays the amounts so withdrawn, together with interest; shall be entitled to receive a deferred vested benefit as provided in this paragraph.

(ii)(A) Upon such discontinuance under the conditions and in compliance with the provisions of subparagraph (i) of this paragraph, such deferred vested benefit shall vest automatically.

(B) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

(iii) Subject to the provisions of paragraph nine of subdivision d of this section, such deferred benefit shall be a retirement allowance determined in accordance with the applicable provisions of subparagraph (v) of paragraph one of this subdivision in the same manner as if he or she had retired for service pursuant to paragraph one of this subdivision.

d. Additional member contributions. 1. In addition to the member contributions required by the applicable provisions of the administrative code or the BERS rules and regulations, each participant in the age fifty-five retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law) an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service rendered on and after the starting date of the age fifty-five retirement program (i) while such person is a participant in such program;

(ii) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and

(iii) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of subdivision b of this section (whether or not rendered in a New York city eligible position).

2. A participant in the age fifty-five retirement program shall contribute additional member contributions until the later of (i) June

twenty-ninth, two thousand eight; or (ii) the date on which he or she has completed twenty-five years of credited service.

3. (i) Commencing with the first full payroll period after each person becomes a participant in the age fifty-five retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

(ii) (A) Those portions of the additional member contributions required by paragraph one of this subdivision which are attributable to credited service rendered on and after the starting date of the age fifty-five retirement program, and prior to the actual commencement of deductions from compensation pursuant to subparagraph (i) of this paragraph, by a person who becomes a participant pursuant to paragraph one of subdivision b of this section, shall be paid by deductions from the compensation of such participant pursuant to and in accordance with the provisions of item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from such participant's compensation are begun pursuant to subparagraph (i) of this paragraph, in addition to such deductions required by subparagraph (i) of this paragraph, there shall be another deduction of additional member contributions made from the compensation of such participant at one-third the rate at which deductions are being made pursuant to subparagraph (i) of this paragraph, subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph, provided, however, that deductions pursuant to this item shall be made only during the period while such person is a participant after first becoming a participant pursuant to paragraph one of subdivision b of this section

and before ceasing to be such a participant.

4. (i) Each participant in the age fifty-five retirement program shall be charged with a contribution deficiency consisting of the total amount of additional member contributions such person is required to make pursuant to paragraph one of this subdivision which is not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) Subject to the provisions of subparagraph (iii) of this paragraph, the interest required to be paid on the amount specified in subparagraph (i) of this paragraph shall accrue from the end of each of the payroll periods for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) (A) Should any person who, pursuant to paragraph eleven of this subdivision, has received a refund of the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision), including any interest paid on such employee portion, again become a participant in the age fifty-five retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person

received a refund of such employee portion of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph thirteen of this subdivision), as if such employee portion of additional member contributions never had been paid.

(B) Any person who has his or her membership in one participating retirement system terminated without transferring such membership directly from such participating retirement system to the other participating retirement system, who has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision at the time of the termination of such membership, who, pursuant to paragraph five of subdivision b of this section, thereafter again becomes a participant in the age fifty-five retirement program as a member of either participating retirement system without having received a refund of the employee portion of his or her additional member contributions pursuant to paragraph eleven of this subdivision, shall have an appropriate amount included in such participant's contribution deficiency (including interest thereon as calculated in subparagraph (ii) of this paragraph) for any credited service for which such person borrowed and did not repay such employee portion of additional member contributions, as if such employee portion of additional member contributions never had been paid.

(ii) (A) Interest on the employee portion of a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such employee portion of additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such employee portion of additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

6. (i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated deductions of a member under the applicable provisions of the administrative code or the BERS rules and regulations or otherwise while he or she is a participant in the age fifty-five retirement program or otherwise.

(ii) All additional member contributions required for any period of credited service pursuant to paragraph one of this subdivision (and any interest paid thereon pursuant to paragraph four of this subdivision) which, pursuant to subparagraph (i) of this paragraph, are paid by a participant, subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, into the contingent reserve fund of the retirement system of which such participant is a member (other than repayments of loans of additional member contributions pursuant to paragraph twelve of this subdivision or amounts paid in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision) shall be divided in the following manner:

(A) one-half of such additional member contributions (and any such interest paid thereon) shall be the employer contribution portion of such additional member contributions; and

(B) one-half of such additional member contributions (and any such interest paid thereon) shall be the employee portion of such additional member contributions, and shall be credited to the employee additional contributions account which shall be established for such participant within the contingent reserve fund of such retirement system.

(iii) No person, while he or she is a participant or otherwise, shall at any time be permitted:

(A) to borrow, pursuant to paragraph twelve of this subdivision or any other provision, any of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of this paragraph, including any interest paid thereon) which has been paid into the contingent reserve fund of the

retirement system; or

(B) to receive a refund of any of such employer contribution portion pursuant to paragraph eleven of this subdivision or any other provision.

(iv) None of the employer contribution portion of a participant's additional member contributions (including any interest paid thereon) shall for any purpose:

(A) be deemed to be part of the employee portion of additional member contributions paid by a participant; or

(B) be credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system.

(v) All repayments of loans of the employee portion of additional member contributions pursuant to paragraph twelve of this subdivision and all payments of the employee portion of additional member contributions in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision which are paid by a participant to the contingent reserve fund of a participating retirement system (and any interest paid thereon) shall be part of the employee portion of such participant's additional member contributions and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such retirement system.

7. Where a person who was a participant in the age fifty-five retirement program as a member of one participating retirement system becomes such a participant as a member of the other participating retirement system:

(i) the employer contribution portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system; and

(ii) the employee portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such first retirement system that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system, and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such second retirement system.

8. A person who was a participant in the age fifty-five retirement program as a member of one participating retirement system, who becomes such a participant as a member of the other participating retirement system and who thereafter transfers his or her membership in such first retirement system directly to such second retirement system as such a participant shall be deemed to have the same unpaid balance of a loan of the employee portion of additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest) as he or she had in such first retirement system at the time of such transfer of membership to the second retirement system.

9. (i) Where a participant who is otherwise eligible for service retirement pursuant to paragraph one of subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to paragraph one of subdivision c of this section, provided, however, that where such participant is not entitled to a refund of the employee portion of

additional member contributions pursuant to subparagraph (iii) of paragraph eleven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of the administrative code or the BERS rules and regulations shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this chapter) which is actuarially equivalent to:

(A) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(B) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan).

(ii) Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to paragraph two of subdivision c of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to paragraph two of subdivision c of this section, provided, however, that the deferred vested benefit determined pursuant to subparagraph (iii) of paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this chapter) which is actuarially equivalent to:

(A) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(B) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan).

10. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision, promulgate

regulations for the payment of additional member contributions required by this subdivision, and any interest thereon, by participants in the age fifty-five retirement program (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

11. (i) Subject to the provisions of paragraph thirteen of this subdivision, a participant in the age fifty-five retirement program who retires for disability pursuant to the applicable provisions of the administrative code or the BERS rules and regulations shall be entitled, upon such retirement, to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for disability, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(ii) Subject to the provisions of paragraph thirteen of this subdivision, upon the death of a participant in the age fifty-five retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated deductions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of his or her death, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(iii) Subject to the provisions of paragraph thirteen of this subdivision, a person:

(A) who is or was a participant in the age fifty-five retirement program;

(B) who retires for service as a member of TRS or BERS pursuant to the applicable service retirement provisions of the administrative code or the BERS rules and regulations;

(C) who is in active service on the effective date of retirement;

(D) who is at least sixty-two years of age on the effective date of retirement; and

(E) who was in active service for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(iv) Subject to the provisions of paragraph thirteen of this subdivision, a person who ceases to be a participant in the age fifty-five retirement program as a member of a participating retirement system because he or she ceases to hold a New York city eligible position, who thereafter is employed in another position in public employment which is not a New York city eligible position, but which entitles such person to membership in another public retirement system which is maintained in whole or in part by the city or state of New York, and who thereafter transfers his or her membership in such participating retirement system directly to such second public retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such participating retirement system, together with

interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(v) Subject to the provisions of paragraph thirteen of this subdivision, any person who withdraws as a participant in the age fifty-five retirement program by filing a valid request for such withdrawal pursuant to subparagraph (ii) of paragraph three of subdivision b of this section shall, upon such withdrawal, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such withdrawal as a participant, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(vi) Subject to the provisions of paragraph thirteen of this subdivision, a participant in the age fifty-five retirement program who has been terminated from employment in a New York city eligible position for economic reasons by his or her public employer shall be entitled, upon such termination, to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such termination from employment, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(vii) Notwithstanding any other provision of law to the contrary,

(A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph;

(B) no person, while he or she is a participant in the age fifty-five

retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise; and

(C) no person, while he or she is a participant or otherwise, shall at any time be permitted to withdraw any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision), pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

12. A participant in the age fifty-five retirement program shall be permitted to borrow from the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision, including any interest paid thereon) which is credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system of which he or she is a member. The borrowing from such employee portion of additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in the applicable provisions of section six hundred thirteen-a of this chapter (for TRS members) or section six hundred thirteen-b of this chapter (for BERS members) which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision and the applicable provisions of section six hundred thirteen-a of this chapter (for TRS) or section six hundred thirteen-b of this chapter (for BERS) as made applicable to this subdivision, promulgate regulations governing the borrowing of such employee portion of additional member contributions, provided, however, that no person, while he or she is a participant or otherwise, shall at any time be permitted to borrow, pursuant to this paragraph or any other provision, any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision).

13. Whenever a person has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision at the time he or she becomes entitled to a refund of the employee portion of his or her additional member contributions pursuant to paragraph eleven of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such employee portion shall be the net amount of such employee portion, together with interest thereon in accordance with the provisions of paragraph eleven of this subdivision.

14. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

15. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

16. The provisions of subdivision b of section four hundred forty of this article shall apply to participants under this section.

§ 446. Credit for service. a. Part-time service.

1. A member of a retirement system who is subject to the provisions of this article who works less than full time, which for the purposes of this article shall mean less than thirty hours a week in the case of a member who has a specified work-week, shall receive retirement credit for such service in accordance with the following provisions:

(a) A member employed on an hourly basis who works for five hundred or more hours a year and who is on the payroll for a minimum of five months in the year shall receive credit on a prorated basis, but in no event shall less than six hours constitute a full day's retirement credit;

(b) A member employed on a per diem basis who works at least sixty

days in a year and who is on the payroll for a minimum of five months in the year shall receive retirement credit on a day-for-day basis, but in no event shall less than six hours constitute a full day's retirement credit;

(c) If the annual salary of a member paid on a basis other than per diem or per hour would be less than the product of the state's minimum wage during such period and two thousand hours, the presumption shall be that such a member is a part-time employee and any retirement credit granted shall be prorated; provided, however, such a member shall not receive greater credit than a member working on a per diem basis.

2. Except for retirement credit for military service as specified in subdivision d of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provisions of this section, with respect to members of the New York state employees' retirement system, teachers as defined in section one hundred thirty-six of the civil service law, employed full time for the school year, shall be deemed on the payroll of the state, for twelve months in crediting retirement service credit for service rendered. For the purposes of this paragraph the comptroller shall define school year by regulation.

3. The membership of any member who is subject to the provisions of this subdivision a, or to the provisions of any rule or regulation promulgated and approved in accordance with the provisions of subdivision f of this section, shall be continued and shall not be terminated for so long as such member is actually in service.

b. Previous service.

A member of a retirement system who is subject to the provisions of this article shall be eligible to obtain retirement credit for previous service if retirement credit had previously been granted for such service or if such service that would have been creditable in one of the public retirement systems of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, at the time

such service was rendered, if the individual had been a member of such retirement system and the member has rendered a minimum of two years of credited service after July first, nineteen hundred seventy-three; provided, however, retirement credit may be granted for service which predates the date of entry into the retirement system if such service is otherwise creditable and was rendered by an employee during which employment he was ineligible to join a public retirement system.

* b-1. Employer pick-up of contributions in respect of previous service. Notwithstanding any other provision of law, any member of the New York city teachers' retirement system eligible to purchase credit for previous service with a public employer pursuant to subdivision b of this section, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement. Such agreement shall set forth the amount of previous service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions specified therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of such agreement.

* NB Effective until notice of ruling by Internal Revenue Service per ch. 627/2007 §22

* b-1. Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member of the New York city teachers' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York state and local employees' retirement system, the New York state and local police and fire retirement system or the New York city fire department pension fund eligible to purchase credit for previous service with a public employer pursuant to subdivision b of this section or to purchase credit for military service pursuant to article twenty of this chapter, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to

the extent such elections are permitted by the member's retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions specified therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of such agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22 -- expires per ch. 691/2004 §8

c. Creditable service.

A member of a retirement system who is subject to the provisions of this article shall not be eligible to obtain retirement credit for service with a public employer other than the state of New York, a political subdivision thereof, a public benefit corporation, or a participating employer; provided, however, military service with the federal government may be credited pursuant to section two hundred forty-three of the military law up to a maximum of four years; and further provided that retirement credit may be granted for service with an agency located within the state of New York currently specified in the law as providing retirement credit for service.

d. To facilitate administration of the provisions of this section the administrative head or the trustees of a retirement system, as may be appropriate, may make interpretations of the provisions of this section which are consistent with the intent of this section, but such interpretations shall not take effect unless publicly promulgated.

f. Notwithstanding any other provision of law, any member of the New York state and local employees' retirement system who is subject to the provisions of this article and who is employed by a school district, a

board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section four thousand two hundred one of the education law, or a school district as enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven as amended to date, shall have their service credit for service rendered on or after January first, nineteen hundred ninety determined by dividing the number of days worked in a school year by one hundred eighty. For the purpose of this section a school year will begin on July first and end the following June thirtieth. No more than one year of service may be credited during any such fiscal year. Credit for service rendered before January first, nineteen hundred ninety shall be determined in the same manner if a person eligible for such benefit shall file the appropriate application with the state comptroller on or before August second, nineteen hundred ninety-six and, within five years of filing such application, make payment for all costs necessary to finance the receipt of such service credit.

g. Notwithstanding the provisions of subdivision c of this section, a member of a retirement system who is subject to the provisions of this article shall be eligible to obtain retirement credit for previous service if retirement credit has previously been granted for such service rendered prior to January first, nineteen hundred fifty-five and if such member has rendered a minimum of three years of credited service after July first, nineteen hundred seventy-three.

h. The provisions of paragraph one of subdivision a of this section shall not apply to members of the New York city employees' retirement system or the New York city board of education retirement system who are subject to the provisions of this article. The crediting of service for such members of such retirement systems shall be governed by the applicable provisions of subdivision c of section 13-638.4 of the administrative code of the city of New York, and the other applicable provisions of such code and of the rules and regulations of such board of education retirement system.

i. Except for retirement credit for military service as specified in

subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provision of this section to the contrary, with respect to members of the New York state and local employees' retirement system, a member who is employed by a community college as defined in section six thousand three hundred one of the education law or who is employed by any unit of the state university of New York as defined in section three hundred fifty of the education law, and who is in the classified service as that term is defined in section forty of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college or state university for twelve months in crediting retirement service credit for service rendered.

j. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provision of this section to the contrary, a member of the New York state and local employees' retirement system who is employed by a community college as defined in section six thousand three hundred one of the education law or who is employed by any unit of the state university of New York as defined in section three hundred fifty of the education law, and who is in the unclassified service of the civil service as defined in subdivisions (h) and (i) of section thirty-five of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college or state university for twelve months in crediting retirement service credit for service rendered.

§ 447. Options. a. A member of a retirement system who is subject to the provisions of this article shall at the time of retirement have two

additional options available to him which shall be the actuarial equivalent of his retirement allowance without optional modification:

(1) A "five-year certain option" under which payment is made to the pensioner for life but is guaranteed for a minimum of five years following retirement; and

(2) A "ten-year certain option" under which payment is made to the pensioner for life but is guaranteed for a minimum of ten years following retirement.

b. No retirement system shall make available to any member subject to the provisions of this article an option which provides for payment to a beneficiary or to an estate of the balance of the present value of the reserve attributable to employer contributions established at the time of retirement upon the death of the member in retirement.

c. Notwithstanding any other provision of this article, an option selection previously filed by a member or retired member subject to the provisions of this section may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever is later.

§ 448. Death benefits. a. A member of a retirement system who is subject to the provisions of this article, exclusive of those members for whom provision is made pursuant to subdivision b of this section, shall, at the time of first becoming a member thereof, make an election, which shall be irrevocable, for coverage for financial protection in the event of death in service, between the two following benefits:

1. A benefit upon the death of a member in service equal to one month's salary for each full year of service up to a maximum of three years' salary upon the completion of thirty-six full years of service, or in the event that a member is eligible to retire without benefit

reduction pursuant to section four hundred forty-two of this article, a benefit equal to the pension reserve, if any, which would have been payable to such member had he entered prior to the effective date of this article and died in service, subject to the benefit limitations set forth in section four hundred forty-four of this article, if this alternative provides a greater benefit, or;

2. A benefit upon the death of a member in service equal to the member's salary upon his or her completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system, the New York state and local employees' retirement system or the New York state and local police and fire retirement system, such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he or she last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he or she last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he or she last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he or she last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he or she last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than the New York

state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system, the New York state and local employees' retirement system or the New York state and local police and fire retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten per centum per year of the original benefit otherwise payable, but not below ten per centum of the original benefit otherwise payable.

In the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age or a member of the New York state and local police and fire retirement system, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date

of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. Upon retirement from any retirement system, the benefit in force shall be reduced by fifty per centum; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five per centum, and upon commencement of the third year of retirement, the benefit shall be ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.

3. If a member dies in service without having made the election specified in this subdivision within ninety days after first becoming a member, or within the period prescribed by the retirement system of

which he is a member if such period is less than ninety days, he shall be deemed to have made the election specified in paragraph two.

4. Notwithstanding any other provision of this article, any member of the New York state teachers' retirement system who joined on or after July first, nineteen hundred seventy-three and before July first, nineteen hundred seventy-four may change the election set forth in this subdivision by filing a new election on or before June thirtieth, nineteen hundred eighty-nine. The election filed pursuant to this paragraph shall be irrevocable.

5. Notwithstanding any provision of this article, a member of a retirement system subject to the provisions of this article who last joined such system on or after January first, two thousand one who is not covered by the death benefit calculation provided in subdivision b of this section shall, upon a qualifying death, be covered by the death benefit calculation provided pursuant to paragraph two of this subdivision and shall not be entitled to elect between the death benefit calculations provided in paragraphs one and two of this subdivision. Any individual who last joined such system before January first, two thousand one who is not covered by the death benefit calculation provided in subdivision b of this section shall be covered, upon a qualifying death, by the death benefit calculation provided by paragraph two of this subdivision unless such individual had timely elected death benefit coverage under the calculation provided by paragraph one of this subdivision and, upon such death, it is determined that the benefit, as calculated under such paragraph one would be greater than as calculated under such paragraph two, in which case the benefit calculated under such paragraph one shall be payable.

b. A member of a retirement system subject to the provisions of this article who is a police officer, firefighter, correction officer or sanitation worker and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provisions of subdivision b of section four hundred forty-five of this article, shall upon completion of ninety days of service be covered for financial protection in the event of death in

service pursuant to this subdivision.

1. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law or, in the case of a member of a retirement system other than the New York city employees' retirement system, the New York city police pension fund, subchapter two or the New York city fire department pension fund, subchapter two, the specific limitations specified for age of entrance into service contained in subparagraphs (b), (c), (d), (e) and (f) of paragraph two of subdivision a of this section.

2. Provided further, notwithstanding any other provision of this article to the contrary, where the member is a police officer or firefighter and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand, the beneficiary or beneficiaries nominated for the purposes of this subdivision may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater, provided further that for the purpose of determining entitlement to the benefit provided by this subdivision, and notwithstanding subdivision j of section three hundred forty-one of this chapter, where the member is an officer or member of the state police the total number of days of unused sick leave and accumulated vacation credit accrued by the member at the time of his or her death shall be considered in meeting the total creditable service required to qualify for a service retirement benefit provided without regard to age where his or her death occurs on or after July second, two thousand nine. Provided further that where such police officer or firefighter dies on or after July first, two thousand, after having retired from service, but before a first payment of a retirement allowance, such person shall be deemed to have been in service at the time of his or her death for the purposes of this subdivision only, and provided further that the pension reserve established pursuant to this

paragraph for a person who dies after retiring from service, but before first payment of a retirement allowance, shall be determined as of the date of retirement and any pension payments payable for the period of time prior to the retiree's death shall be deducted from any benefits payable pursuant to this subdivision.

3. Provided further, notwithstanding any other provision of this article to the contrary, where the member is in a title as defined in subdivision i of section eighty-nine of this chapter, and would have been entitled to a service retirement benefit at the time of such member's death and where such member's death occurs on or after July first, two thousand twenty-six, the beneficiary or beneficiaries nominated for the purposes of this subdivision may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of such member's death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

c. For the purpose of this section, salary shall be the regular compensation earned during the member's last twelve months of service in full pay status as a member or, if he or she had not completed twelve months of service prior to the date of death, but was subject to the provisions of subdivision b of this section, the compensation he or she would have earned had he or she worked for the twelve months prior to such date; provided, however, for the purpose of this section salary shall exclude any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation sick leave, or accumulated vacation credit or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence) and in no event shall it exceed the maximum salary specified in section one hundred thirty of the civil service law, as added by part B of chapter ten of the laws of two thousand eight, or the maximum salary specified in section one hundred thirty of the civil service law, as hereafter amended, whichever is greater.

d. The benefits provided pursuant to this section are in lieu of all

other benefits provided by this or any other state or local law exclusive of a benefit provided under the workmen's compensation law, the civil service law or group life insurance; provided, however, a beneficiary of a member eligible for a benefit as the result of a service connected accident, may elect to receive such other benefit in lieu of the benefit provided pursuant to this section.

e. For the purposes of this section:

1. A member who dies while off the payroll shall be considered to be in service provided he or she (a) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (b) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (c) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer; notwithstanding any other provision of law to the contrary, a member of the New York city employees' retirement system or the board of education retirement system of the city of New York shall be deemed to have died on the payroll for the purposes of this section in the event that death occurs while such member is on an authorized leave of absence without pay for medical reasons which has continuously been in effect since the member was last paid on the payroll in such service, provided, however, that such member was on the payroll in such service and paid within the four-year period prior to his or her death; and

2. The benefit payable shall be in addition to any payment made on account of a member's accumulated contributions.

3. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of

the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

f. Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for the death benefit payable pursuant to this section, a person subject to this section shall be considered to have died while in teaching service provided such person was in such service at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five. Provided, further, that any such person ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirements.

g. A member, or on the death of such member, the person nominated by him or her to receive his or her death benefit, may provide, by written designation, duly executed and filed with the comptroller, that such death benefit and the reserve-for-increased-take-home-pay shall be paid in the form of an annuity. Such designation shall be filed prior to or within ninety days after the death of the member. The amount of such annuity shall be determined as the actuarial equivalent of such death benefit and reserve on the basis of the age of such beneficiary at the time of the member's death. For the purposes of this subdivision, the mortality and interest rates used in determining this annuity shall be the rates in effect on the date of the death of such member.

§ 448-a. Death benefit for vested members who die prior to retirement.

a. A death benefit plus the reserve-for-increased-take-home-pay, if any, shall be payable upon the death of a member of a retirement system who:

1. Died before the effective date of retirement while a member of such retirement system;

2. Had at least ten years of credited service at the time of death;
and

3. Died at a time and in a manner which did not result in the eligibility of the member's estate or any beneficiary to receive any death benefits from such retirement system on account of such death.

b. Benefits provided under this section shall be payable to the member's estate or the beneficiary or beneficiaries nominated by the member on a designation of beneficiary form filed with the administrative head of such retirement system.

c. The amount of the benefit payable pursuant to this section shall be equal to one-half of the amount of the ordinary death benefit which would have been payable had the member's death occurred on the last day of service upon which membership was based.

§ 450. Definitions. For the purposes of this article: (1) the term "correction officer" shall mean members of the New York state and local employees' retirement system who are in a plan limited to uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or members of such system who are also in titles defined in subdivision i of section eighty-nine of this chapter and correction members of the New York city employees' retirement system; (2) the term "police officer or firefighter" shall mean members of the New York state and local police and fire retirement system, the New York city police pension fund, New York city fire department pension fund, and housing police members and transit police members of the New York city employees' retirement system; (3) the term "sanitation man" shall mean sanitation members of the New York city

employees' retirement system; and (4) the term "investigator member" shall mean members who are police officers as defined in paragraph (g) of subdivision thirty-four of section 1.20 of the criminal procedure law.

§ 451. Duration. Notwithstanding any other provision of this chapter or of any other law, effective July first, nineteen hundred seventy-six, all benefits provided by an actuarially funded public retirement system of the state of New York or any municipality thereof shall continue with respect to members to which article fourteen is applicable only until December thirty-first, nineteen hundred seventy-six.

ARTICLE TWELVE

NEGOTIATION OF RETIREMENT BENEFITS

Section 470. Temporary suspension of retirement negotiations.

472. Implementation of agreements.

473. Impasses in coalition negotiations.

§ 470. Temporary suspension of retirement negotiations. Changes negotiated between any public employer and public employee, as such terms are defined in section two hundred one of the civil service law, with respect to any benefit provided by or to be provided by a public retirement system, or payments to a fund or insurer to provide an income for retirees or payment to retirees or their beneficiaries, shall be prohibited.

§ 472. Implementation of agreements. Any agreements reached pursuant to the coalition negotiations provided for in this article shall be presented to the commission in form for introduction as legislation no later than November fifteenth prior to the legislative session at which enactment will be sought and shall be delivered for introduction no later than January fifteenth of such session. The commission shall cause such proposed legislation to be made public prior to the December first

preceding such session and shall hold public hearings thereon. The commission shall present to the governor and legislature its recommendations with the legislation.

§ 473. Impasses in coalition negotiations. (a) In the event of an impasse occurring during the course of coalition negotiations either the employer coalition or the employee organization coalition may declare impasse no earlier than September fifteenth or later than October first in any year. Notice of impasse shall be filed with the public employment relations board created pursuant to article fourteen of the civil service law.

(b) Forthwith after receipt of the notice of impasse the public employment relations board shall appoint a fact finding board of not more than three members, each representative of the public, from a list of qualified persons maintained by the board, which fact finding board shall have, in addition to the powers delegated to it by the public employment relations board, the power to make public recommendations for the resolution of the dispute.

(c) If the dispute is not resolved by November fifteenth prior to the legislative session at which implementation of any changes described by section four hundred seventy-one of this article will be sought, the fact finding board shall transmit its findings of fact and recommendations to the coalition parties and to the public employment relations board.

(d) In the event either of the coalition parties to the impasse does not accept the recommendations of the fact finding board, such coalition party may submit its position with respect to such recommendations of the fact finding board to the public employment relations board and to the other coalition party to the impasse.

(e) The public employment relations board shall cause such recommendation of the fact finding board and the positions of the parties to be made public prior to December first and shall hold public hearings thereon. In addition to the powers vested in the public employment relations board by law, it may require the assistance of representatives of any public retirement system or any public employer or employee organization as defined in article fourteen of the civil

service law and may request or permit, in its discretion, the testimony of any person or organization whose testimony would assist in the resolution of the dispute in the public interest.

(f) On or before January fifteenth following such notice of impasse or thirty days following the close of such hearings whichever first occurs, the public employment relations board shall present its recommendations with respect to the impasse to the governor, the legislature and the parties to the impasse.

(g) The legislature or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the issues and the recommendations of the fact finding board and the public employment relations board; thereafter, the legislature shall take such action as it deems to be in the public interest, including the interest of the public employees involved.

ARTICLE 13

EXTENSION OF TEMPORARY BENEFITS AND SUPPLEMENTATION PROGRAMS

Section 480. Extension of temporary benefits and supplementation programs.

§ 480. Extension of temporary benefits and supplementation programs.

a. Every temporary right, privilege or benefit conferred pursuant to the provisions of a general, special or local law (other than pursuant to articles fourteen and fifteen of this chapter) for any member of a public retirement system or pension plan funded by the state or one of its political subdivisions, which is scheduled to expire or terminate at any time during nineteen hundred seventy-four, nineteen hundred seventy-five, nineteen hundred seventy-six, nineteen hundred seventy-seven, nineteen hundred seventy-eight, nineteen hundred seventy-nine, nineteen hundred eighty, nineteen hundred eighty-one, nineteen hundred eighty-two, nineteen hundred eighty-three, nineteen hundred eighty-four, nineteen hundred eighty-five, nineteen hundred eighty-six, nineteen hundred eighty-seven, nineteen hundred eighty-eight, nineteen hundred eighty-nine, nineteen hundred ninety,

nineteen hundred ninety-one, nineteen hundred ninety-two, nineteen hundred ninety-three, nineteen hundred ninety-four, nineteen hundred ninety-five, nineteen hundred ninety-six, nineteen hundred ninety-seven, nineteen hundred ninety-eight, nineteen hundred ninety-nine, two thousand, two thousand one, two thousand two, two thousand three, two thousand four, two thousand five, two thousand six, two thousand seven, two thousand eight, two thousand nine, two thousand ten or two thousand eleven, is hereby extended, notwithstanding the provisions of such general, special or local law. Notwithstanding the foregoing, nothing in this section shall be construed to extend the provisions of article eighteen of this chapter or to affect any statutory deadlines provided in such article.

b. (i) Any program under which an employer in a public retirement system funded by the state or one of its political subdivisions assumes all or part of the contribution which would otherwise be made by its employees toward retirement, which expires or terminates during nineteen hundred seventy-four, is hereby extended, notwithstanding the provisions of any other general, special or local law, except that commencing with the payroll period the first day of which is nearest to January first, nineteen hundred seventy-six, the rate of such contribution assumed by an employer in any of the public retirement systems funded and maintained by a city, shall be one-half the rate of such contribution assumed by such employer for the immediately preceding payroll period except as provided in paragraph (ii) of this subdivision.

(ii) Commencing with the first payroll period the first day of which is subsequent to October first, two thousand, the rate of such contribution assumed by an employer in the New York city police pension fund and in the New York city fire department pension fund shall be equal to the rate of such contributions assumed by such employer for the payroll period preceding January first, nineteen hundred seventy-six.

c. All supplemental retirement allowances or supplemental pensions paid to pensioners or beneficiaries of any retirement system supported in whole or in part by the state or a political subdivision thereof, which are scheduled to expire at any time during nineteen hundred seventy-five, nineteen hundred seventy-six, nineteen hundred

seventy-seven, nineteen hundred seventy-eight, nineteen hundred seventy-nine, nineteen hundred eighty, nineteen hundred eighty-one, nineteen hundred eighty-two, nineteen hundred eighty-three, nineteen hundred eighty-four, nineteen hundred eighty-five, nineteen hundred eighty-six, nineteen hundred eighty-seven, nineteen hundred eighty-eight, nineteen hundred eighty-nine, nineteen hundred ninety, nineteen hundred ninety-one, nineteen hundred ninety-two, nineteen hundred ninety-three, nineteen hundred ninety-four, nineteen hundred ninety-five, nineteen hundred ninety-six, nineteen hundred ninety-seven, nineteen hundred ninety-eight, nineteen hundred ninety-nine, two thousand one, two thousand two, two thousand three, two thousand four, two thousand five, two thousand six, two thousand seven, two thousand eight, two thousand nine, two thousand ten or two thousand eleven, shall be continued notwithstanding any other provision of any general, special or local law provided, however, that all such supplemental retirement allowances or supplemental pensions which are scheduled to expire at any time during two thousand nine shall be continued notwithstanding any other provisions of any general, special or local law.

ARTICLE 14

COORDINATED-ESCALATOR RETIREMENT PLAN

- Section 500. Application.
501. Definitions.
502. Eligibility for service retirement benefits; minimum service requirements.
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- 517-c. Loans to members of certain retirement systems.
- 518. Election of coverage under article.
- 519. Effect of other laws.
- 520. Duration.

§ 500. Application. a. Notwithstanding any other provision of law, except as otherwise provided in subdivisions c and f of this section, the provisions of this article shall apply to all members who join or rejoin a public retirement system of the state on or after July first, nineteen hundred seventy-six and to all employees who would have been eligible to join or rejoin such a retirement system on or after such date but in lieu thereof elected an optional retirement program to which their employers are thereby required to contribute. In the event that there is a conflict between the provisions of this article and the provisions of any other law or code, the provisions of this article shall govern.

b. Notwithstanding any other provision of this article to the contrary, persons who on or after July first, nineteen hundred seventy-six:

1. Enter the employment of a public employer which participates for such employees in the New York city employees' retirement system, the New York city teachers' retirement system, the New York city police pension fund, article two, the New York city fire department pension fund, article one-B, and the New York city board of education retirement system shall be required to become members or shall be eligible or ineligible for membership in such retirement system or pension fund in

the manner provided for by the relevant provisions of the New York city administrative code and other relevant laws and rules and regulations.

2. Enter the employment of a public employer which participates for such employees in the New York state teachers' retirement system shall be required to become members or shall be eligible or ineligible for membership in such retirement system in the manner provided for by the relevant provisions of the New York state education law.

3. Enter the employment of a public employer which participates for such employees in the New York state and local police and fire retirement system shall be required to become members or shall be eligible or ineligible for membership in such retirement system in the manner provided for by the relevant provisions of this chapter.

4. Enter the employment of a public employer which participates for such employees in the New York state employees' retirement system in positions in which they shall work full time shall be required to become members.

a. Provided, however, persons in the employ of such employers after such date in positions in which they work less than full time shall be permitted to become members of the New York state employees' retirement system by filing an application therefor in the manner provided for by section forty of this chapter.

b. Provided further that an employee of a county extension service association or Cornell university appointed for the first time on or after August first, nineteen hundred seventy-seven who holds a federal cooperative appointment with the United States department of agriculture as designated by the director of the New York state cooperative extension service and who is eligible for participation in the federal retirement system shall be excluded from membership in the state employees' retirement system.

c. Provided further that any employee of a county extension service association and any employee of Cornell university appointed for the

first time on or after July first, nineteen hundred seventy-six but on or before July thirty-first, nineteen hundred seventy-seven, who holds a state cooperative appointment as designated by the director of the New York state cooperative extension service may elect to receive a federal cooperative appointment in the manner provided for by the relevant federal laws, rules and regulations and to participate in the federal retirement system and discontinue his participation in the state retirement system by filing a written notice of termination on or before December thirty-first, nineteen hundred seventy-eight with the comptroller. Any employee who is a member of the state employees' retirement system at the time he or she elects coverage in the federal retirement program shall be deemed to be a person who discontinues service on the effective date of such election, for the purpose of determining his or her eligibility for rights and benefits in such state system; provided, however, that if he or she does not withdraw accumulated contributions, (i) continued service with the county extension service association or Cornell university while under the federal retirement program shall be deemed to be member service in the New York state employees' retirement system for the purpose of determining eligibility for any vested retirement allowance, retirement allowance or ordinary death benefit under such system dependent upon a specified period of total service or upon attainment of a specified age while in service or upon death while in service; and (ii) the amount of any such benefit to which the person or his or her estate or person designated by him or her may become entitled under either such system shall be computed only on the basis of service otherwise creditable to him or her therein and his or her compensation during such service. Electing employees and their beneficiaries shall not be entitled to any right or benefit under the New York state employees' retirement system other than a vested retirement allowance, retirement allowance or ordinary death benefit to the extent expressly provided for in this chapter.

c. If the comptroller certifies that the contribution rate under this article for any participating employer who is participating on the effective date hereof would be at least one percent higher than the rate which would be applicable to such employer for an employee who is

subject to article eleven of this chapter and who was hired prior to July first, nineteen hundred seventy-six, the provisions of this article shall not apply with respect to such participating employer, provided, however that members who first join the New York state and local police and fire retirement system on or after January first, two thousand ten shall not be subject to the provisions of this article. In such event, the provisions of article eleven and article twenty-two of this chapter shall continue to be applicable to such participating employer and its employees, as provided in section four hundred fifty-one of this chapter. If, as a result of actuarial experience, such employer's contribution rate should increase to the extent that it is not at least one percent lower than the contribution rate under this article, then, upon certification of such fact by the comptroller, the provisions of this subdivision shall no longer apply with respect to the employees of such employer who thereafter first join or rejoin a public retirement system.

d. The provisions of this article shall not be construed to extend coverage to an employee who would not have been, if employed in the same capacity on June thirtieth, nineteen hundred seventy-six, eligible for membership in the retirement system involved, or to provide an increase in benefits to a member of a retirement system other than as provided by sections five hundred six, five hundred seven, five hundred eight and five hundred nine of this article.

e. Notwithstanding any other provision of law, any person who is not required to become a member of a public retirement system of the state by subdivision b of this section but who became a member on or after July first, nineteen hundred seventy-six may terminate such membership by filing a written notice of termination with the head of the retirement system of which he is a member on or before July first, nineteen hundred seventy-seven.

f. Notwithstanding the provisions of subdivision a of this section, members who were employed by the New York city board of education and assigned during the first fifteen days of the school term to a position which is expected to be vacant for that term and who were employed in

one of the three school years immediately prior to July first, nineteen hundred seventy-six in a position which did not entitle them to apply for membership in a public retirement system who first joined the New York city teachers' retirement system subsequent to June thirtieth, nineteen hundred seventy-six shall have all the rights, benefits and privileges applicable to employees who were members of such system on June thirtieth, nineteen hundred seventy-six provided they make written application, duly executed and filed with the New York city teachers' retirement board prior to July first, nineteen hundred eighty-nine.

g. Notwithstanding the provisions of subdivision a of this section, members who were employed by the New York city board of education as regular substitute teachers when assigned as such and members who were employed by the New York city board of education and assigned during the school year to a position which was expected to be vacant for that school year, such members having been employed for a period of not less than twenty school days during such school year in a position which did not entitle them to apply for membership in a public retirement system who first joined the New York city teachers' retirement system or the New York state teachers' retirement system subsequent to June thirtieth, nineteen hundred seventy-six shall have all the rights, benefits and privileges to which they would have been entitled had their current membership begun on the date their original service commenced, provided they make written application, duly executed and filed with the retirement system in which they are members on or before June thirtieth, two thousand three. Any member of a teachers' retirement system who is entitled by reason of this chapter to have all the rights, benefits and privileges of a member of such system as of a date prior to July first, nineteen hundred seventy-six shall not be entitled to a refund of any contributions made to such system prior to the effective date of this subdivision pursuant to this article or article fifteen of this chapter.

§ 501. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context.

1. "Active service" shall mean service while being paid on the payroll of a participating employer.

2. "Cost-of-living index" shall mean the consumer price index (all items--United States city averages) published by the United States bureau of labor statistics.

3. "Credited service" shall mean all service which has been credited to a member pursuant to section five hundred thirteen or which was credited to such member in a public retirement system of the state before such member became subject to this article and which is allowable as previous service pursuant to section five hundred thirteen.

4. "Creditable service" is service which qualifies to be counted as credited service pursuant to section five hundred thirteen.

5. "Early retirement age" shall mean age fifty-five, for general members, and the age on which a member completes or would have completed twenty years of service, for police/fire members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members.

6. "Elective member" shall mean a member who is not subject to the provisions of this article on a mandatory basis.

7. "Eligible beneficiary" for the purposes of section five hundred nine of this article shall mean the following persons or classes of persons in the order set forth: (a) a surviving spouse who has not renounced survivorship rights in a separation agreement, until remarriage, (b) surviving children until age twenty-five, (c) dependent parents, determined under regulations promulgated by the comptroller, (d) any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age, (e) with respect to members of the New York city employees' retirement system (other than a New York city uniformed correction/sanitation revised plan member or an investigator revised

plan member) and the board of education retirement system of the city of New York, a person whom the member shall have nominated in the form of a written designation, duly acknowledged and filed with the head of the retirement system for the purpose of section five hundred eight of this article. In the event that a class of eligible beneficiaries consists of more than one person, benefits shall be divided equally among the persons in such class. For the purposes of section five hundred eight of this article the term "eligible beneficiary" shall mean such person as the member shall have nominated to receive the benefits provided in this article. To be effective, such a nomination must be in the form of a written designation, duly acknowledged and filed with the head of the retirement system for this specific purpose. In the event such designated beneficiary does not survive the member, or if such member shall not have so designated a beneficiary, such benefits shall be payable to the deceased member's estate or as provided in section one thousand three hundred ten of the surrogate's court procedure act, (f) notwithstanding any other provisions of law, "eligible beneficiary" of a New York city uniformed sanitation revised plan member for the purposes of section five hundred nine of this article shall mean the following persons or classes of persons in the order set forth: (i) a surviving spouse who has not renounced survivorship rights in a separation agreement, (ii) surviving children until age twenty-five, (iii) dependent parents, determined under regulations promulgated by the comptroller and (iv) any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age, and (g) notwithstanding any other provisions of law, "eligible beneficiary" of a New York city police pension fund member for the purposes of section five hundred nine of this article shall mean the following persons or classes of persons in the order set forth: (i) a surviving spouse who has not renounced survivorship rights in a separation agreement, (ii) surviving children until age twenty-five, (iii) dependent parents, determined under regulations promulgated by the comptroller, and (iv) any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age.

8. "Excess contributions" shall mean any contributions (and interest thereon) made by a member prior to becoming subject to this article which, if not withdrawn, would have been used to purchase an additional annuity at retirement had the member continued in the plan of which he was a member before becoming subject to this article.

9. "Federal social security program" shall mean the federal old age and survivor's assistance program under the federal social security act.

10. "Federal social security primary insurance amount" shall mean the primary insurance amount as defined in section 215 (a) (1) (A) of the federal social security act.

11. "Federal social security benefit computation period" shall mean a member's benefit computation years as determined pursuant to section 215 (b) of the federal social security act.

12. "General member" shall mean a member subject to the provisions of this article who is not a police/fire member, a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member.

13. "Head of the retirement system" shall mean the comptroller, with respect to the state employees' retirement system and the state and local police and fire retirement system, and the retirement board of the other public retirement systems of the state.

14. "In service" shall mean any period during which a member is on the payroll of a public employer, in the service upon which membership is based, and any period during which the member was not on the payroll if he or she; (a) was on the payroll and paid within the previous twelve months, (b) had not been gainfully employed since ceasing to be on such payroll, (c) had credit for at least one year of continuous service since last entering or reentering the service of the public employer and (d) was not eligible for or receiving a service retirement or disability benefit.

15. "Mandatory retirement age" shall mean age seventy, for general members, and age sixty-two, for police/fire members.

16. "Member" shall mean any person included in the membership of a public retirement system of this state as provided in section five hundred of this article.

17. "Normal retirement age" shall be age sixty-two, for general members, the age at which a member completes or would have completed twenty-two years of service, for police/fire members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members; except that for police/fire members of the New York city police pension fund, normal retirement age shall be the age at which a member completes or would have completed twenty years of service, and the age at which a member completes twenty years of service for police/fire members who are members of the New York city fire department pension fund; and except that for New York city uniformed correction/sanitation revised plan members, normal retirement age shall be the age at which a member completes or would have completed twenty years of service.

18. "Participating employer" shall mean a public employer who is participating in a public retirement system of the state.

19. "Primary social security retirement benefit" shall mean the benefit payable to a covered employee, at age sixty-two or later, under the federal social security program, exclusive of any family benefits, calculated as provided in subdivision c of section five hundred eleven.

20. "Primary social security disability benefit" shall mean the benefit payable to a disabled covered employee under the federal social security program, exclusive of any family benefits, calculated as provided in subdivision c of section five hundred eleven.

21. "Police/fire member" shall mean a member subject to the provisions of this article who, if employed in the same capacity on June thirtieth,

nineteen hundred seventy-six, would have been eligible for membership in the New York state and local police and fire retirement system, the New York city police pension fund or the New York city fire department pension fund, or for participation in the uniformed transit police force plan or housing police force plan in the New York city employees' retirement system.

22. "Public employer" shall mean an employer who is eligible to participate in a public retirement system of the state.

23. "Public retirement system of the state" shall mean the New York state employees' retirement system, New York state and local police and fire retirement system, New York state teacher's retirement system, New York city employees' retirement system, New York city teacher's retirement system, New York city police pension fund, New York city fire department pension fund and the New York city board of education retirement system.

24. (a) "Wages" shall mean regular compensation earned by and paid to a member by a public employer, except that for members who first join the state and local employees' retirement system on or after January first, two thousand ten, overtime compensation paid in any year in excess of the overtime ceiling, as defined by this subdivision, shall not be included in the definition of wages.

(b) "Overtime compensation" shall mean, for purposes of this section, compensation paid under any law or policy under which employees are paid at a rate greater than their standard rate for additional hours worked beyond those required, including compensation paid under section one hundred thirty-four of the civil service law and section ninety of the general municipal law.

* (c)(i) The "overtime ceiling" shall mean fifteen thousand dollars per annum on January first, two thousand ten, and shall be increased by three percent each year thereafter, provided, however, that for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, "overtime ceiling" shall mean fifteen thousand dollars per annum on April first, two thousand twelve, and shall be increased each year

thereafter by a percentage to be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal the annual inflation as determined from the increase in the consumer price index in the one year period ending on the December thirty-first preceding the overtime ceiling adjustment effective on the ensuing April first.

(ii) Commencing January first, two thousand eighteen, and each year thereafter, the overtime ceiling percentage shall be increased by an amount equal to the annual inflation as determined from the increase in the consumer price index in the one year period ending on the September thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

* NB Effective until January 1, 2027

* (c) The "overtime ceiling" shall mean fifteen thousand dollars per annum on January first, two thousand ten, and shall be increased by three percent each year thereafter, provided, however, that:

(i) For members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, "overtime ceiling" shall mean fifteen thousand dollars per annum on April first, two thousand twelve, and shall be increased each year thereafter by a percentage to be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal the annual inflation as determined from the increase in the consumer price index in the one year period ending on the December thirty-first preceding the overtime ceiling adjustment effective on the ensuing April first.

(ii) Commencing January first, two thousand eighteen, and each year thereafter, the overtime ceiling percentage shall be increased by an amount equal to the annual inflation as determined from the increase in the consumer price index in the one year period ending on the September thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

(iii) Commencing January first, two thousand twenty-seven, for members

who first become members of such system on or after January first, two thousand ten, the "over-time ceiling" shall mean thirty thousand dollars per annum and shall be increased by three percent each year thereafter.

* NB Effective January 1, 2027

(d) For the purpose of calculation a member's primary federal social security retirement or disability benefit, wages shall, in any calendar year, be limited to the portion of the member's wages which would be subject to tax under section three thousand one hundred twenty-one of the internal revenue code of nineteen hundred fifty-four, or any predecessor or successor provision relating thereto, if such member was employed by a private employer.

(e) For members who first become members of the New York state and local employees' retirement system on or after the effective date of chapter eighteen of the laws of two thousand twelve, the following items shall not be included in the definition of wages: (a) wages in excess of the annual salary paid to the governor pursuant to section three of article four of the state constitution, (b) lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked, (c) any form of termination pay, (d) any additional compensation paid in anticipation of retirement, and (e) in the case of employees who receive wages from three or more employers in a twelve month period, the wages paid by the third and each successive employer.

(f) For New York city enhanced plan members who receive the ordinary disability benefit provided for in subdivision c-1 of section five hundred six of this article or the accidental disability benefit provided for in paragraph three of subdivision c of section five hundred seven of this article, the following items shall not be included in the definition of wages: (a) lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked, (b) any form of termination pay, (c) any additional compensation paid in anticipation of retirement, and (d) in the case of employees who receive wages from three or more employers in a twelve month period, the wages paid by the third and each successive employer.

25. "New York city uniformed correction/sanitation revised plan member" shall mean a member who becomes subject to the provisions of this article on or after April first, two thousand twelve, and who is a

member of either the uniformed force of the New York city department of correction or the uniformed force of the New York city department of sanitation.

26. "New York city police/fire revised plan member" shall mean a police/fire member who becomes subject to the provisions of this article on or after April first, two thousand twelve, and who is a member of either the New York city police pension fund or the New York city fire department pension fund.

27. "Investigator revised plan member" shall mean an investigator member of the New York city employees' retirement system who is a police officer as defined in paragraph (g) of subdivision thirty-four of section 1.20 of the criminal procedure law, and who becomes subject to the provisions of this article on or after April first, two thousand twelve.

28. "New York city enhanced plan member" shall mean (a) a New York city police/fire revised plan member who becomes subject to the provisions of this article on or after June fifteenth, two thousand sixteen and who is a member of the New York city fire department pension fund, (b) a police/fire member who is a member of the New York city fire department pension fund and who makes an election, which shall be irrevocable and shall be duly executed and filed with the administrative head of such pension fund no later than one hundred twenty days after the effective date of this subdivision, to be subject to the provisions of this article related to New York city enhanced plan members, (c) a New York city police/fire revised plan member who became subject to the provisions of this article before June fifteenth, two thousand sixteen, who is a member of the New York city fire department pension fund, and who makes an election, which shall be irrevocable and shall be duly executed and filed with the administrative head of such pension fund no later than one hundred twenty days after the effective date of this subdivision, to be subject to the provisions of this article related to New York city enhanced plan members, (d) a New York city police/fire revised plan member who becomes subject to the provisions of this article on or after April first, two thousand seventeen and who is a

member of the New York city police pension fund, (e) a police/fire member who is a member of the New York city police pension fund and who makes an election, which shall be irrevocable and shall be duly executed and filed with the administrative head of such pension fund no later than one hundred twenty days after the effective date of the chapter of the laws of two thousand seventeen which amended this subdivision, to be subject to the provisions of this article related to New York city enhanced plan members, or (f) a New York city police/fire revised plan member who became subject to the provisions of this article before April first, two thousand seventeen, who is a member of the New York city police pension fund, and who makes an election, which shall be irrevocable and shall be duly executed and filed with the administrative head of such pension fund no later than one hundred twenty days after the effective date of the chapter of the laws of two thousand seventeen which amended this subdivision, to be subject to the provisions of this article related to New York city enhanced plan members.

§ 502. Eligibility for service retirement benefits; minimum service requirements. a. A member who first joins a public retirement system of this state on or after June thirtieth, nineteen hundred seventy-six shall not be eligible for service retirement benefits hereunder until such member has rendered a minimum of five years of creditable service after July first, nineteen hundred seventy-three.

b. A member who previously was a member of a public retirement system of this state shall not be eligible for service retirement benefits hereunder until such member has rendered a minimum of five years of service which is creditable pursuant to section five hundred thirteen of this article.

c. An elective member who is not vested in the plan from which he or she transferred shall not be eligible for service retirement or vested benefits hereunder until such member has rendered a minimum period of service equal to the additional service which such member would have been required to accrue under such former plan in order to obtain a vested benefit.

d. Notwithstanding any other provision of this section, a pensioner receiving a service retirement benefit: (i) who returns to active public service and joins or rejoins a public retirement system on or after July first, nineteen hundred seventy-six, and (ii) who thereafter separates from service before becoming eligible for a retirement benefit hereunder, shall, upon such separation, be entitled to receive the service retirement benefit which he or she was receiving prior to his or her last restoration to membership. Provided, however, if such pensioner was not subject to this article at the time he or she last retired, he or she shall, upon separation, be entitled to receive a retirement allowance which shall consist of an annuity which is the actuarial equivalent of his or her accumulated contributions, if any, and the pension, including pension-providing-for-increased-take-home-pay, which he or she was receiving prior to his last restoration to membership.

e. Notwithstanding any other provision of this section, if a member attains mandatory retirement age, the minimum service requirements specified in this section shall be five years.

f. Upon the first day of the month after the attainment of mandatory retirement age, a member shall be separated from service whether or not eligible for service retirement hereunder; provided however, that this requirement shall not preclude a member from being continued in service beyond such mandatory retirement age pursuant to other applicable provisions of law.

§ 503. Eligibility for normal and early service retirement benefits; age and service requirements. a. The normal service retirement benefit specified in section five hundred four of this article shall be payable to general members, other than elective members, who have met the minimum service requirements upon retirement and attainment of age sixty-two, provided, however, a general member who is a peace officer employed by the unified court system or a member of a teachers' retirement system may retire without reduction of his or her retirement benefit upon attainment of at least fifty-five years of age and

completion of thirty or more years of service. For members who become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the normal service retirement benefits specified in section five hundred four of this article shall be payable to general members, other than elective members, who have met the minimum service requirements upon retirement and attainment of age sixty-three.

b. The normal service retirement benefit specified in section five hundred four shall be payable to elective-general members who have met the minimum service requirements upon retirement and attainment of whichever of the following ages is applicable:

(i) if the member was within ten years of the normal retirement age for the plan from which such member transferred at the time of transfer, the normal retirement age for such plan with respect to such member.

(ii) if the member was not within ten years of the normal retirement age of the plan from which such member transferred, at an age equal to the normal retirement age for such plan with respect to such member plus one year for each year such member was more than ten years from such normal retirement age at the time of transfer, provided that normal retirement age shall in no event be greater than five years more than the normal retirement age of the plan from which the member transferred or age sixty.

c. A general member shall be eligible for early service retirement at age fifty-five with five years of credited service. A general member in the uniformed correction force of the New York city department of correction, who is not eligible for early service retirement pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c of section five hundred four-d of this article, or a general member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision, as defined in subdivision i of section eighty-nine of this chapter or serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter, shall also be eligible for early

service retirement after twenty-five years of credited service, provided, however, that the provisions of this subdivision and subdivision a of this section shall not apply to a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member.

d. The normal service retirement benefit specified in section five hundred five of this article shall be paid to police/fire members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members without regard to age upon retirement after twenty-two years of service; except that the normal service retirement benefit specified in section five hundred five of this article shall be paid to police/fire members of the New York city police pension fund, after twenty years of service; provided, however, that such normal service retirement benefit for police/fire members who are members of the New York city fire department pension fund shall be paid to such members of the New York city fire department pension fund without regard to age upon retirement after twenty years of service; and except that the normal service retirement benefit specified in section five hundred five of this article shall be paid to New York city uniformed correction/sanitation revised plan members after twenty years of service. Early service retirement shall be permitted upon retirement after twenty years of credited service or attainment of age sixty-two, provided, however, that New York city police/fire revised plan members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members shall not be eligible to retire for service prior to the attainment of twenty years of credited service.

§ 504. Service retirement benefits; general members. a. The service retirement benefit for general members at normal retirement age with twenty or more years of credited service shall be a pension equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years, less fifty percent of the primary social security retirement benefit as provided in section five hundred eleven of this article. The service retirement benefit for general members at normal retirement age with twenty or more years of service who first

become members of the New York state and local employees' retirement system on or after April first, two thousand twelve at normal retirement age shall be a pension equal to the sum of thirty-five per centum and one-fiftieth of final average salary for each year of service in excess of twenty, but not in excess of thirty, times final average salary times years of credited service.

b. The service retirement benefit for general members at normal retirement age with less than twenty years of credited service shall be a pension equal to one-sixtieth of final average salary times years of credited service, less fifty percent of the primary social security retirement benefit as provided in section five hundred eleven.

c. The early service retirement benefit for general members, except for general members whose early retirement benefit is specified in subdivision d of this section, shall be the service retirement benefit specified in subdivision a or b of this section, as the case may be, without social security offset, reduced by one-fifteenth for each of the first two years by which early retirement precedes age sixty-two, plus a further reduction of: (1) one-thirtieth; or (2) one-twentieth for members who first join the New York state and local employees' retirement system on or after January first, two thousand ten, for each year by which early retirement precedes age sixty, provided however, that for members who first become members of the New York state and local employees' retirement system on or after the effective date of the chapter of the laws of two thousand twelve which amended this subdivision, the early service retirement benefit for general members, except for general members whose early retirement benefit is specified in subdivision d of this section, shall be the service retirement benefit specified in subdivision a or b of this section, as the case may be, without social security offset, reduced by six and one-half per centum for each year by which early retirement precedes age sixty-three. At age sixty-two, the benefit shall be reduced by fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article.

d. The early service retirement benefit for general members in the

uniformed correction force of the New York city department of correction, who are not entitled to an early service retirement benefit pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c of section five hundred four-d of this article, or for general members in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision, as defined in subdivision i of section eighty-nine of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary, provided, however, that the provisions of this section shall not apply to a New York city uniformed correction/sanitation revised plan member.

e. The early service retirement benefit for uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision, as defined in subdivision i of section eighty-nine of this chapter, or who are in titles defined in subdivision i of section eighty-nine of this chapter and who have made an election pursuant to the provisions of article seventeen of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary.

§ 504-a. Twenty-year retirement program for New York city correction members below the rank of captain. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "New York city correction officer below the rank of captain" shall mean a member of the uniformed force of the New York city department of correction who holds the rank of correction officer below the rank of captain in the correction service of the classification of the department of personnel of such city.

2. "New York city correction member below the rank of captain" shall

mean a general member (as defined in subdivision twelve of section five hundred one of this article) who is a New York city correction officer below the rank of captain.

3. "Twenty-year retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-year retirement program" shall mean the effective date of this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-year retirement program" shall mean any New York city correction member below the rank of captain who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year retirement program, as applicable to him or her.

6. "Discontinued member" shall mean a participant in the twenty-year retirement program who, while he or she was a New York city correction officer below the rank of captain, discontinued service in the uniformed force of the New York city department of correction and has a right to a deferred vested benefit under subdivision d of this section.

7. "Administrative code" shall mean the administrative code of the city of New York.

8. "New York city correction officer of the rank of captain or above" shall have the same meaning as set forth in paragraph one of subdivision a of section five hundred four-b of this article.

9. "Twenty-year retirement program for captains and above" shall mean all the terms and conditions of section five hundred four-b of this article.

10. "Starting date of the twenty-year retirement program for captains and above" shall have the same meaning as set forth in paragraph four of subdivision a of section five hundred four-b of this article.

b. Participation in twenty-year retirement program. 1. Subject to the provisions of paragraph six of this subdivision, any person who is a New York city correction member below the rank of captain on the starting date of the twenty-year retirement program and who, as such a correction member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-year retirement program by filing, within one hundred eighty days after the starting date of the twenty-year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a correction member below the rank of captain on the date such application is filed.

2. Subject to the provisions of paragraph six of this subdivision, any person who becomes a New York city correction member below the rank of captain after the starting date of the twenty-year retirement program and who, as such a correction member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-year retirement program by filing, within one hundred eighty days after becoming such a correction member, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a correction member below the rank of captain on the date such application is filed.

3. Any election to be a participant in the twenty-year retirement program shall be irrevocable.

4. Each New York city correction member below the rank of captain who becomes subject to the provisions of this article after the starting date of the twenty-year retirement program (other than such a correction member who is required pursuant to subdivision b of section five hundred four-d of this article to be a participant in the twenty-year retirement program established by such section five hundred four-d) shall become a participant in the twenty-year retirement program on the date he or she becomes such a correction member. Notwithstanding any other provision of

law to the contrary, a New York city correction officer below the rank of captain who becomes a participant in the twenty-year retirement program pursuant to this paragraph by becoming subject to the provisions of this article after the starting date of the twenty-year retirement program shall have the term "credited service" applied to him or her in the same manner as such term would be applied to a similarly situated correction officer below the rank of captain who is governed by article eleven of this chapter, and who is a participant in the twenty-year improved benefit retirement program pursuant to section four hundred forty-five-a of such article eleven.

4-a. Notwithstanding any other provision of this subdivision or any other provision of law to the contrary, no member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member shall be a participant in the twenty-year retirement program.

5. Where any participant in the twenty-year retirement program shall cease to hold the position of New York city correction officer below the rank of captain, he or she shall cease to be such a participant, and shall not be such a participant during any period in which he or she does not hold the position of New York city entry level correction officer below the rank of captain.

6. Where any participant in the twenty-year retirement program terminates service as a New York city correction officer below the rank of captain and returns to such service as a New York city correction member below the rank of captain at a later date, he or she shall again become such a participant on that date.

7. Where any participant in the twenty-year retirement program terminates service as a correction officer below the rank of captain, attains the rank of captain in the uniformed force of the New York city department of correction and thereafter terminates such service and immediately returns to service in the rank of correction officer below the rank of captain, he or she shall be eligible to purchase service credit for the period during which he or she held the rank of captain,

provided he or she shall be charged with a contribution deficiency based upon his or her compensation as a captain and pay additional member contributions as provided in subdivision d of this section at the same rate he or she would have had to contribute if he or she held the rank of correction officer below the rank of captain during such time and had no such break in service; provided further that he or she shall be permitted to purchase such credit if he or she immediately returns to service in the rank of correction officer below the rank of captain only during the eighteen month probationary period, or such greater probationary period as may be applicable, unless he or she is involuntarily transferred from the position of captain to correction officer below the rank of captain in which event he or she shall be authorized to purchase such service credit.

c. Service retirement benefits. 1. A participant in the twenty-year retirement program:

(i) who has completed twenty or more years of credited service; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(iv) who shall be a participant in the twenty-year retirement program at the time so specified for his or her retirement;
shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, the early service retirement benefit for participants in the twenty-year retirement program who retire pursuant to paragraph one of this subdivision shall be a pension consisting of:

(A) an amount, on account of twenty years of credited service, equal to one-half of his or her final average salary; plus

(B) an amount for each additional year of credited service, or fraction thereof, beyond such twenty years of credited service equal to one-sixtieth of the final average salary for such credited service

during the period from the completion of twenty years of credited service to the date of retirement.

(ii) The maximum pension computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall equal that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-year retirement program who:

(i) discontinues service in the uniformed force of the New York city department of correction while he or she is a New York city correction officer below the rank of captain, other than by death or retirement; and

(ii) prior to such discontinuance, completed five but less than twenty years of credited service; and

(iii) has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) does not withdraw in whole or in part his or her accumulated member contributions pursuant to section five hundred seventeen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section five hundred seventeen;

shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

3. Such deferred vested benefit shall be a pension consisting of an amount equal to two and one-half percent of such discontinued member's final average salary, multiplied by the number of years of credited service on the date of such discontinuance.

e. Additional member contributions. 1. In addition to the member contributions required by section five hundred seventeen of this article, each participant in the twenty-year retirement program shall contribute (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional percentage of his or her compensation to the retirement system of which he or she is a member in accordance with the following schedule:

(i) each such participant who became a New York city correction member below the rank of captain prior to July first, nineteen hundred eighty-eight shall contribute an additional five and eleven one-hundredths percent of his or her compensation earned from all credited service rendered on and after the starting date of the twenty-year retirement program;

(ii) each such participant who became or becomes a New York city correction member below the rank of captain for the first time on or after July first, nineteen hundred eighty-eight shall contribute an additional three and sixty-one one-hundredths percent of his or her compensation earned from all credited service earned as a correction officer below the rank of captain rendered on or after the starting date of the twenty-year retirement program.

A participant in the twenty-year retirement program shall contribute additional member contributions only until he or she has twenty years of credited service.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-year retirement program, additional member contributions at the applicable rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this

subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon at the rate of five percent per annum, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any such unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph eight of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

4. The head of a retirement system which includes participants in the twenty-year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full before the effective date of retirement, that participant shall not be eligible to retire pursuant to subdivision c of this section.

6. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in

full before the date of discontinuance of service, that participant shall not be entitled to a deferred vested benefit pursuant to subdivision d of this section.

7. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of member contributions pursuant to section five hundred seventeen of this article or a refund of additional member contributions pursuant to paragraph eight of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

8. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section five hundred seventeen of this article or otherwise while he or she is a participant in the twenty-year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) (A) Except as otherwise provided in subparagraph (iii) of this paragraph, should a participant in the twenty-year retirement program who has rendered less than fifteen years of credited service cease to hold the position of New York city correction officer below the rank of captain for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-year retirement program on or after the effective date of this clause, there shall be paid to such person as he or she has nominated or shall nominate to

receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) (A) Notwithstanding any other provisions of law to the contrary, any person who has been promoted directly from the position of New York city correction officer below the rank of captain to the position of New York city correction officer of the rank of captain or above, and who is otherwise eligible to elect to become a participant in the twenty-year retirement program for captains and above pursuant to paragraph one or two of subdivision b of section five hundred four-b of this article, and who withdraws any portion of his or her accumulated additional member contributions pursuant to subparagraph (ii) of this paragraph on or after the starting date of the twenty-year retirement program for captains and above shall not be eligible to elect to become a participant in the twenty-year retirement program for captains and above pursuant to paragraph one or two of subdivision b of such section five hundred four-b.

(B) Notwithstanding any other provision of law to the contrary, any person who is promoted directly from the position of New York city correction officer below the rank of captain to the position of New York city correction officer of the rank of captain or above and who, upon such promotion, becomes a participant in the twenty-year retirement program for captains and above pursuant to paragraph four of subdivision b of section five hundred four-b of this article, shall not be permitted to withdraw any portion of his or her accumulated additional member contributions pursuant to the provisions of subparagraph (ii) of this paragraph at any time while he or she is a participant in the twenty-year retirement program for captains and above.

(C) Notwithstanding any other provision of law to the contrary, any former participant in the twenty-year retirement program who becomes a participant in the twenty-year retirement program for captains and above pursuant to any provision of subdivision b of section five hundred four-b of this article, and who has additional member contributions on

deposit in the contingent reserve fund of the retirement system at the time he or she becomes a participant in the twenty-year retirement program for captains and above, shall not be permitted to withdraw any portion of such accumulated additional member contributions pursuant to the provisions of subparagraph (ii) of this paragraph at any time while he or she is a participant in the twenty-year retirement program for captains and above.

(iv) Except as provided in subparagraph (ii) of this paragraph, no member while he or she is a participant or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

9. No member of a public retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon by the participant) which are subject to this subdivision.

f. The escalation of benefits provisions of section five hundred ten of this article shall not apply to any benefits received pursuant to the provisions of this section.

g. Except as provided in item (B) of subparagraph (i) of paragraph two of subdivision c of this section, the provisions of subdivision d of section five hundred of this article shall apply to participants under this section.

h. In the event that the provisions of this section should result in any increase in the contribution rate of the city of New York, that increase shall not apply to any calculation or certification for the purposes of subdivision c of section five hundred of this article.

§ 504-b. Twenty-year retirement program for New York city correction members of the rank of captain or above. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "New York city correction officer of the rank of captain or above" shall mean a member of the uniformed force of the department of correction of the city of New York who holds the rank of correction captain; assistant deputy warden, also known as warden correction level I; deputy warden or deputy warden-in-command, also known as warden correction level II; warden or deputy chief, also known as warden correction level III; or chief of department, also known as warden correction in the correction service of such city.

2. "New York city correction member of the rank of captain or above" shall mean a general member (as defined in subdivision twelve of section five hundred one of this article) who is a New York city correction officer of the rank of captain or above.

3. "Twenty-year retirement program for captains and above" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-year retirement program for captains and above" shall mean the effective date of this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-year retirement program for captains and above" shall mean any New York city correction member of the rank of captain or above who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year retirement program for captains and above, as applicable to him or her.

6. "Discontinued member" shall mean a participant in the twenty-year retirement program for captains and above who, while he or she was a New York city correction officer of the rank of captain or above, discontinued service in the uniformed force of the department of correction of the city of New York and has a right to a deferred vested benefit under subdivision d of this section.

7. "Administrative code" shall mean the administrative code of the city of New York.

8. "Revised contribution date" shall mean the effective date of this paragraph, as such date is certified pursuant to section forty-one of the legislative law.

b. Participation in twenty-year retirement program for captains and above. 1. (i) Subject to the provisions of paragraph six of this subdivision and of subparagraph (iii) of paragraph eight of subdivision e of section five hundred four-a of this article, any person who is a New York city correction member of the rank of captain or above on the starting date of the twenty-year retirement program for captains and above who, as such a correction member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-year retirement program for captains and above by filing, within ninety days after such starting date, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a correction member of the rank of captain or above on the date such application is filed.

(ii) Notwithstanding the provisions of subparagraph (iii) of paragraph eight of subdivision e of section five hundred four-a of this article or of any other law to the contrary, any New York city correction member of the rank of captain or above who was eligible pursuant to the provisions of this paragraph to elect to become a participant in the twenty-year retirement program for captains and above, but who failed to make such an election, may be deemed to have elected to become a participant in the twenty-year retirement program for captains and above as of the starting date of the twenty-year retirement program for captains and above by filing with the retirement system, within one hundred twenty days after the revised contribution date, a duly executed application to become a participant in such retirement program as of such starting date, provided he or she is a correction member of the rank of captain or above on the date such application is filed.

2. (i) Subject to the provisions of paragraph six of this subdivision and of subparagraph (iii) of paragraph eight of subdivision e of section five hundred four-a of this article, any person who becomes a New York

city correction member of the rank of captain or above after the starting date of the twenty-year retirement program for captains and above and who, as such a correction member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-year retirement program for captains and above by filing, within ninety days after becoming such a correction member, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a correction member of the rank of captain or above on the date such application is filed.

(ii) Notwithstanding the provisions of subparagraph (iii) of paragraph eight of subdivision e of section five hundred four-a of this article or of any other law to the contrary, any New York city correction member of the rank of captain or above who became such a correction member of such rank prior to the revised contribution date, and who was eligible pursuant to the provisions of this paragraph to elect to become a participant in the twenty-year retirement program for captains and above, but who failed to make such an election, may be deemed to have elected to become a participant in the twenty-year retirement program for captains and above as the date he or she first became a New York city correction member of the rank of captain or above by filing with the retirement system, within one hundred twenty days after the revised contribution date, a duly executed application to become a participant in such retirement program as of the date he or she became such a correction member, provided he or she is a correction member of the rank of captain or above on the date such application is filed.

3. Any election to be a participant in the twenty-year retirement program for captains and above shall be irrevocable.

4. Each person who becomes a New York city correction member of the rank of captain or above on or after the starting date of the twenty-year retirement program for captains and above (other than such a correction member who is required pursuant to subdivision b of section five hundred four-d of this article to be a participant in the twenty-year retirement program established by such section five hundred four-d) and who, as such a correction member or otherwise, becomes

subject to the provisions of this article on or after such starting date, shall become a participant in the twenty-year retirement program for captains and above on the date he or she becomes such a correction member. Notwithstanding any other provision of law to the contrary, a New York city correction member of the rank of captain or above who becomes a participant in the twenty-year retirement program for captains and above pursuant to this paragraph by becoming subject to the provisions of this article on or after the starting date of the twenty-year retirement program for captains and above shall have the term "credited service" applied to him or her in the same manner as such term would be applied to a similarly situated correction officer of the rank of captain or above who is governed by article eleven of this chapter and who is a participant in the twenty-year improved benefit retirement program for captains and above pursuant to section four hundred forty-five-c of such article eleven.

4-a. Notwithstanding any other provision of this subdivision or any other provision of law to the contrary, no member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member shall be a participant in the twenty-year retirement program for captains and above.

5. Where any participant in the twenty-year retirement program for captains and above shall cease to hold the position of New York city correction officer of the rank of captain or above, he or she shall cease to be such a participant and shall not be such a participant during any period in which he or she does not hold the position of New York city correction officer of the rank of captain or above.

6. Where any participant in the twenty-year retirement program for captains or above terminates service as a New York city correction officer of the rank of captain or above and returns to such service as a New York city correction member of the rank of captain or above at a later date, he or she shall again become such a participant on that date.

c. Service retirement benefits. 1. A participant in the twenty-year retirement program for captains and above:

(i) who has completed twenty or more years of credited service; and

(ii) who, subject to the provisions of paragraph nine of subdivision e of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four, five and seven of subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(iv) who shall be a participant in the twenty-year retirement program for captains and above at the time so specified for his or her retirement;

shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph nine of subdivision e of this section, the early service retirement benefit for participants in the twenty-year retirement program for captains and above who retire pursuant to paragraph one of this subdivision shall be a pension consisting of:

(A) an amount, on account of twenty years of credited service, equal to one-half of his or her final average salary; plus

(B) an amount for each additional year of credited service, or fraction thereof, beyond such twenty years of credited service equal to one-sixtieth of the final average salary for such credited service during the period from the completion of twenty years of credited service to the date of retirement.

(ii) The maximum pension computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall be equal to that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-year retirement program for captains and above:

(i) who discontinues service in the uniformed force of the department

of correction of the city of New York while he or she is a New York city correction officer of the rank of captain or above, other than by death or retirement; and

(ii) who, prior to such discontinuance, completed five but less than twenty years of credited service; and

(iii) who, subject to the provisions of paragraph ten of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four, five and seven of subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section five hundred seventeen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section five hundred seventeen;

shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired from service if such discontinuance had not occurred.

3. Subject to the provisions of paragraph ten of subdivision e of this section, such deferred vested benefit shall be a pension consisting of an amount equal to two and one-half percent of such discontinued member's final average salary, multiplied by the number of years of credited service on the date of such discontinuance.

e. Additional member contributions. 1. In addition to the member contributions required by section five hundred seventeen of this article, each participant in the twenty-year retirement program for captains and above shall contribute (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional percentage of his or her compensation to the retirement system in accordance with the following schedule:

(i) each such participant who became a New York city correction member of the rank of captain or above prior to November first, nineteen hundred ninety-two shall contribute an additional five and fifty-nine one-hundredths percent of his or her compensation earned from all service as a New York city correction member of the rank of captain or above rendered on and after the starting date of the twenty-year retirement program for captains and above and prior to the revised contribution date, provided, however, that for any person covered by this subparagraph who is such a participant on or after the revised contribution date, the additional member contributions required by this subparagraph (including any interest required thereon) shall be recomputed using the rate of five and eleven one-hundredths percent instead of the rate of five and fifty-nine one-hundredths percent;

(ii) each such participant who became or becomes a New York city correction member of the rank of captain or above for the first time on or after November first, nineteen hundred ninety-two shall contribute an additional seven and forty-six one-hundredths percent of his or her compensation earned from all service as a New York city correction member of the rank of captain or above rendered on and after the starting date of the twenty-year retirement program for captains and above and prior to the revised contribution date, provided, however, that for any person covered by this subparagraph who is such a participant on or after the revised contribution date, the additional member contributions required by this subparagraph (including any interest required thereon) shall be recomputed using the rate of five and eleven one-hundredths percent instead of the rate of seven and forty-six one-hundredths percent;

(iii) each participant in the twenty-year retirement program for captains and above shall contribute an additional five and eleven one-hundredths percent of his or her compensation earned from all service as a New York city correction member of the rank of captain or above rendered on and after the revised contribution date.

2. A participant in the twenty-year retirement program for captains and above shall contribute additional member contributions only until he or she has twenty years of credited service.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-year retirement program for captains and above, additional member contributions at the applicable rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

4. In addition to the member contributions required pursuant to section five hundred seventeen of this article, and the additional member contributions required pursuant to paragraph one of this subdivision, each participant in the twenty-year retirement program for captains and above who, prior to becoming such a participant, rendered service as a New York city correction member of the rank of captain or above on or after December nineteenth, nineteen hundred ninety and prior to the starting date of the twenty-year retirement program for captains and above, and/or service as a New York city correction member below the rank of captain on or after December nineteenth, nineteen hundred ninety and prior to becoming such a participant shall make retroactive additional member contributions to the retirement system based on such service in accordance with the following schedule:

(i) each such participant who became a New York city correction member of the rank of captain or above prior to November first, nineteen hundred ninety-two shall, subject to the provisions of subparagraph (iii) of this paragraph, contribute an amount equal to five and fifty-nine one-hundredths percent of his or her compensation earned from:

(A) all service as a New York city correction member of the rank of captain or above rendered on and after December nineteenth, nineteen hundred ninety and prior to the starting date of the twenty-year retirement program for captains and above; and

(B) all service as a New York city correction member below the rank of captain rendered on and after December nineteenth, nineteen hundred ninety and prior to becoming a participant in the twenty-year retirement program for captains and above;

(ii) each such participant who became or becomes a New York city correction member of the rank of captain or above for the first time on

or after November first, nineteen hundred ninety-two and prior to the revised contribution date shall, subject to the provisions of subparagraph (iii) of this paragraph, contribute an amount equal to seven and forty-six one-hundredths percent of his or her compensation earned from:

(A) all service as a New York city correction member of the rank of captain or above rendered on and after November first, nineteen hundred ninety-two and prior to the starting date of the twenty-year retirement program for captains and above; and

(B) all service as a New York city correction member below the rank of captain rendered on and after December nineteenth, nineteen hundred ninety and prior to becoming a participant in the twenty-year retirement program for captains and above;

(iii) for each such participant covered by either subparagraph (i) or (ii) of this paragraph who is a participant in the twenty-year retirement program for captains and above on or after the revised contribution date, the additional member contributions required by subparagraph (i) or (ii) of this paragraph (including any interest required thereon) shall be recomputed using the rate of five and eleven one-hundredths percent instead of the rate set forth in subparagraph (i) or (ii) of this paragraph;

(iv) each such participant who becomes a New York city correction member of the rank of captain or above for the first time on or after the revised contribution date, and who became a New York city correction member below the rank of captain prior to July first, nineteen hundred eighty-eight, shall contribute an amount equal to five and eleven one-hundredths percent of his or her compensation earned from all service as a New York city correction member below the rank of captain rendered on and after December nineteenth, nineteen hundred ninety and prior to becoming a participant in the twenty-year retirement program for captains and above;

(v) each such participant who becomes a New York city correction member of the rank of captain or above for the first time on or after the revised contribution date, who became a New York city correction member below the rank of captain on or after July first, nineteen hundred eighty-eight, and who was a participant in the twenty-year retirement program for New York city correction members below the rank

of captain established by section five hundred four-a of this article on the day immediately preceding the revised contribution date, shall contribute an amount equal to three and sixty-one one-hundredths percent of his or her compensation earned from all service as a New York city correction member below the rank of captain rendered on and after December nineteenth, nineteen hundred ninety and prior to becoming a participant in the twenty-year retirement program for captains and above;

(vi) each such participant who becomes a New York city correction member of the rank of captain or above for the first time on or after the revised contribution date, who became a New York city correction member below the rank of captain on or after July first, nineteen hundred eighty-eight, and who was not a participant in the twenty-year retirement program for New York city correction members below the rank of captain established by section five hundred four-a of this article on the day immediately preceding the revised contribution date, shall contribute an amount equal to five and eleven one-hundredths percent of his or her compensation earned from all service as a New York city correction member below the rank of captain rendered on and after December nineteenth, nineteen hundred ninety and prior to becoming a participant in the twenty-year retirement program for captains and above.

5. Each participant in the twenty-year retirement program for captains and above who is required to make retroactive additional member contributions in accordance with the provisions of paragraph four of this subdivision shall be charged with a contribution deficiency consisting of the amounts of such retroactive additional member contributions determined in accordance with such paragraph four, together with interest thereon compounded annually, and

(i) such interest on each such amount shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system; and

(ii) the rate of interest to be applied to each such amount shall be equal to the rate or rates of interest required by law to be used during

that same period to credit interest on the accumulated deductions of retirement system members.

6. Where a person who became or becomes a participant in the twenty-year retirement program for captains and above has rendered less than fifteen years of credited service as of the date he or she became or becomes a New York city correction member of the rank of captain or above, the amount of the contribution deficiency charged to such a participant pursuant to paragraph five of this subdivision, consisting of retroactive additional member contributions plus interest on such amounts, shall be reduced by an amount equal to the additional member contributions which such participant made pursuant to paragraph one of subdivision e of section five hundred four-a of this article as a participant in the twenty-year retirement program for correction officers below the rank of captain (together with any interest thereon) which are on deposit in the contingent reserve fund of the retirement system on the date such person became or becomes a participant in the twenty-year retirement program for captains and above, provided, however, that for persons who elect to become a participant in the twenty-year retirement program for captains and above pursuant to subparagraph (ii) of paragraph one of subdivision b of this section or subparagraph (ii) of paragraph two of subdivision b of this section, such reduction pursuant to this paragraph in the amount of such contribution deficiency shall be by the amount of such additional member contributions made pursuant to subdivision e of section five hundred four-a (together with any interest thereon) which are on deposit in such contingent reserve fund at the time such member files such election to become such a participant, and such participant shall not thereafter be permitted to withdraw any portion of such additional member contributions made pursuant to subdivision e of section five hundred four-a at any time while he or she is a participant in the twenty-year retirement program for captains and above, and provided further that the provisions of this paragraph shall apply to any person who is a participant in the twenty-year retirement program for captains and above on or after the revised contribution date, even where such person has rendered fifteen or more years of credited service as of the date he or she became a New York city correction member of the rank of captain or

above.

7. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph three of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon at the rate of five percent per annum, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system.

(ii) Except as otherwise provided in subparagraph (iii) of this paragraph, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

(iii) Should any person who, pursuant to paragraph twelve of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year retirement program for captains and above pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

8. The head of a retirement system which includes participants in the twenty-year retirement program for captains and above in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

9. Where a participant who is otherwise eligible for service

retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs five and/or seven of this subdivision, that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section provided, however, that the service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by the actuarial equivalent of the amount of any contribution deficiency pursuant to such paragraphs five and/or seven which such participant did not pay prior to the effective date of his or her retirement.

10. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs five and/or seven of this subdivision, that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by the actuarial equivalent of the amount of any contribution deficiency pursuant to such paragraphs five and/or seven which such participant did not pay prior to his or her discontinuance of service.

11. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs five and/or seven of this subdivision, and a benefit, other than a refund of member contributions pursuant to section five hundred seventeen of this article, or a refund of additional member contributions pursuant to paragraph twelve of this subdivision, or a benefit which has been reduced pursuant to paragraph nine or ten of this subdivision becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

12. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the

retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section five hundred seventeen of this article or otherwise while he or she is a participant in the twenty-year retirement program for captains and above or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii)(A) Should a participant in the twenty-year retirement program for captains and above who has rendered less than fifteen years of credited service cease to hold the position of New York city correction officer of the rank of captain or above for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the head of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-year retirement program for captains and above, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together with interest thereon at the rate of five percent per annum, compounded annually.

(C) A participant in the twenty-year retirement program for captains and above with twenty or more years of credited service, who has made additional member contributions pursuant to this subdivision in an amount which exceeds the amount of additional member contributions required by this subdivision, and who retires pursuant to this article on or after the revised contribution date, shall receive upon retirement a refund of that portion of such additional member contributions on deposit in the contingent reserve fund which exceeds such required

amount (including any interest thereon paid to the retirement system), together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, no member while he or she is such a participant or otherwise shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

13. Notwithstanding any other provision of law to the contrary, a member of the retirement system shall not be permitted to borrow any portion of his or her additional member contributions (including any interest paid thereon) which are subject to this subdivision.

f. The escalation of benefits provisions of section five hundred ten of this article shall not apply to any benefits received pursuant to the provisions of this section.

g. Except as provided in clause (B) of subparagraph (i) of paragraph two of subdivision c of this section, the provisions of subdivision d of section five hundred of this article shall apply to participants under this section.

h. In the event that the provisions of this section should result in any increase in the contribution rate of the city of New York, that increase shall not apply to any calculation or certification for the purposes of subdivision c of section five hundred of this article.

§ 504-c. Supplemental retirement allowance. Individuals who are receiving benefits from the New York state and local employees' retirement system pursuant to this article and who will not be eligible for escalation pursuant to section five hundred ten of this article shall be entitled to supplemental retirement benefits provided in section seventy-eight of this chapter if they meet all of the eligibility requirements provided in section seventy-eight of this chapter.

§ 504-d. Twenty-year retirement program for New York city correction members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "New York city correction officer" shall mean a member of the uniformed force of the New York city department of correction who holds the rank of correction officer below the rank of captain; correction captain; assistant deputy warden, also known as warden correction level I; deputy warden or deputy warden-in-command, also known as warden correction level II; warden or deputy chief, also known as warden correction level III; or chief of department, also known as warden correction in the correction service of such city.

2. "New York city correction member" shall mean a general member (as defined in subdivision twelve of section five hundred one of this article) who is a New York city correction officer.

3. "Twenty-year retirement program" shall mean all the terms and conditions of this section.

4. "Starting date of the twenty-year retirement program" shall mean the effective date of this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-year retirement program" shall mean any New York city correction member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year retirement program, as applicable to him or her.

6. "Discontinued member" shall mean a participant in the twenty-year retirement program who, while he or she was a New York city correction officer, discontinued service in the uniformed force of the New York city department of correction and has a right to a deferred vested benefit under subdivision d of this section.

7. "Administrative code" shall mean the administrative code of the city of New York.

b. Participation in twenty-year retirement program. 1. Each person who becomes a New York city correction member on or after the starting date of the twenty-year retirement program, who first became or becomes a New York city correction member on or after such starting date and who, as such a correction member or otherwise, becomes subject to the provisions of this article on or after such starting date, shall become a participant in the twenty-year retirement program on the date he or she becomes a New York city correction member. Notwithstanding any other provision of law to the contrary, a participant in the twenty-year retirement program shall have the term "credited service" applied to him or her in the same manner as such term would be applied to a similarly situated correction officer who is governed by article eleven of this chapter, and who is a participant in either the twenty-year improved benefit retirement program for correction officers below the rank of captain established by section four hundred forty-five-a of such article eleven or the twenty-year improved benefit retirement program for captains and above established by section four hundred forty-five-c of such article eleven.

1-a. Notwithstanding any other provision of this subdivision or any other provision of law to the contrary, no member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member shall be a participant in the twenty-year retirement program.

2. Where any participant in the twenty-year retirement program shall cease to hold the position of New York city correction officer, he or she shall cease to be such a participant, and shall not be such a participant during any period in which he or she does not hold the position of New York city correction officer.

3. Where any participant in the twenty-year retirement program terminates service as a New York city correction officer and returns to

such service as a New York city correction member at a later date, he or she shall again become such a participant on that date.

c. Service retirement benefits. 1. A participant in the twenty-year retirement program:

(i) who has completed twenty or more years of credited service; and

(ii) who, subject to the provisions of paragraph six of subdivision e of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(iv) who shall be a participant in the twenty-year retirement program at the time so specified for his or her retirement;
shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-year retirement program who retire pursuant to paragraph one of this subdivision shall be a pension consisting of:

(A) an amount, on account of twenty years of credited service, equal to one-half of his or her final average salary; plus

(B) an amount for each additional year of credited service, or fraction thereof, beyond such twenty years of credited service equal to one-sixtieth of the final average salary for such credited service during the period from the completion of twenty years of credited service to the date of retirement.

(ii) The maximum pension computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall equal that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-year retirement program:

(i) who discontinues service in the uniformed force of the New York city department of correction while he or she is a New York city

correction officer, other than by death or retirement; and

(ii) who, prior to such discontinuance, completed five but less than twenty years of credited service; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section five hundred seventeen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section five hundred seventeen;
shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

3. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a pension consisting of an amount equal to two and one-half percent of such discontinued member's final average salary, multiplied by the number of years of credited service on the date of such discontinuance.

e. Additional member contributions. 1. In addition to the member contributions required by section five hundred seventeen of this article, each participant in the twenty-year retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional four and sixty-one one-hundredths percent of his or her compensation earned from all service as a New York city correction member.

2. A participant in the twenty-year retirement program shall contribute additional member contributions only until he or she has twenty years of credited service.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

4. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph three of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon at the rate of five percent per annum, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any such unpaid additional member contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph three of this subdivision.

(iii) Should any person who, pursuant to paragraph nine of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year retirement program pursuant to paragraph three of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

5. The head of a retirement system which includes participants in the twenty-year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph four of this subdivision, that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section provided, however, that the service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by the actuarial equivalent of the amount of any contribution deficiency pursuant to such paragraph four which such participant did not pay prior to the effective date of his or her retirement.

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph four of this subdivision, that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by the actuarial equivalent of the amount of any contribution deficiency pursuant to such paragraph four which such participant did not pay prior to his or her discontinuance of service.

8. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph four of this subdivision, and a benefit, other than a refund of member contributions

pursuant to section five hundred seventeen of this article, or a refund of additional member contributions pursuant to paragraph nine of this subdivision, or a benefit which has been reduced pursuant to paragraph six or seven of this subdivision becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

9. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section five hundred seventeen of this article or otherwise while he or she is a participant in the twenty-year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii)(A) Should a participant in the twenty-year retirement program who has rendered less than fifteen years of credited service cease to hold the position of New York city correction officer for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the head of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-year retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, no member while he or she is a participant in the twenty-year retirement program or otherwise shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

10. Notwithstanding any other provision of law to the contrary, no member of the retirement system shall be permitted to borrow any portion of his or her additional member contributions (including any interest paid thereon) which are subject to this subdivision.

f. The escalation of benefits provisions of section five hundred ten of this article shall not apply to any benefits received pursuant to the provisions of this section.

g. Except as provided in clause (B) of subparagraph (i) of paragraph two of subdivision c of this section, the provisions of subdivision d of section five hundred of this article shall apply to participants under this section.

h. In the event that the provisions of this section should result in any increase in the contribution rate of the city of New York, that increase shall not apply to any calculation or certification for the purposes of subdivision c of section five hundred of this article.

§ 505. Service retirement benefits; police/fire members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members. a. The normal service retirement benefit for police/fire members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members at normal retirement age shall be a pension equal to fifty percent of final average salary, less fifty percent of the primary social security retirement benefit commencing at age sixty-two, as provided in section five hundred eleven of this article.

b. The early service retirement benefit for police/fire members, New

York city uniformed correction/sanitation revised plan members and investigator revised plan members shall be a pension equal to two and one-tenths percent of final average salary times years of credited service at the completion of twenty years of service or upon attainment of age sixty-two, increased by one-third of one percent of final average salary for each month of service in excess of twenty years, but not in excess of fifty percent of final average salary, less fifty percent of the primary social security retirement benefit commencing at age sixty-two as provided in section five hundred eleven of this article, provided, however, that New York city police/fire revised plan members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members shall not be eligible to retire for service prior to the attainment of twenty years of credited service.

c. A police/fire member, a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member who retires with twenty-two years of credited service or less may become eligible for annual escalation of the service retirement benefit if he elects to have the payment of his benefit commence on the date he would have completed twenty-two years and one month or more of service. In such event, the service retirement benefit shall equal two percent of final average salary for each year of credited service, less fifty percent of the primary social security retirement benefit commencing at age sixty-two as provided in section five hundred eleven of this article.

d. Notwithstanding anything to the contrary in any other law, police/fire members of the New York city police pension fund shall be eligible for a normal service retirement benefit in lieu of an early service retirement benefit upon completing twenty years of service pursuant to subdivision d of section five hundred three of this article.

e. Notwithstanding anything to the contrary in any other law, New York city uniformed correction/sanitation revised plan members shall be eligible for a normal service retirement benefit in lieu of an early service retirement benefit upon completing twenty years of service pursuant to subdivision d of section five hundred three of this article.

§ 506. Ordinary disability benefits. a. A member in active service who is not eligible for a normal retirement benefit shall, upon completing five years or more of service, be eligible for the ordinary disability benefit described in subdivision b of this section if such member has been determined to be eligible for primary social security disability benefits; provided, however, that no member of the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system or the New York state and local employees' retirement system who is otherwise eligible for ordinary disability benefits pursuant to this section shall be deemed to be ineligible for such benefits because such member is eligible for a normal service retirement benefit.

b. The ordinary disability benefit hereunder shall be a pension equal to the greater of (i) thirty-three and one-third percent of final average salary, or (ii) two percent of final average salary times years of credited service not in excess of the maximum years of service for computing service retirement, such benefit in each case to be reduced by fifty percent of the primary social security disability benefit as provided in section five hundred eleven and one hundred percent of any workmen's compensation benefits payable.

c. For the purpose of applying the five year service eligibility requirement in subdivision a of this section, service shall mean all credited service rendered since a member last joined a public retirement system. Provided however, if the member had been in active public service prior to joining the system involved, all continuous public service immediately prior to the date of membership shall be counted toward the five year service requirement. For the purpose of this subdivision, continuous public service shall mean service during a period in which an employee was not off the payroll of a public employer for more than thirty days.

c-1. Notwithstanding any inconsistent provision of subdivision a or b

of this section, the ordinary disability benefit for a New York city enhanced plan member in active service who is not eligible for a normal retirement benefit, has completed five years or more of service, and has been determined to be eligible for primary social security disability benefits shall be a pension equal to the greater of (i) thirty-three and one-third percent of final average salary, or (ii) two percent of final average salary times years of credited service not in excess of the maximum years of service for computing service retirement, such benefit in each case to be reduced by one hundred percent of any workers' compensation benefits payable.

c-2. Notwithstanding any inconsistent provision of subdivision a, b or c-1 of this section, the ordinary disability benefit for a New York city enhanced plan member in the New York city fire department shall not be conditioned upon eligibility for, or upon receipt of, primary social security disability benefits.

d. The provisions of subdivisions d, e, f and g of section five hundred seven of this chapter shall apply to disability benefits under this section.

§ 507. Accidental disability benefits. a. A member in active service, or a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, who is not eligible for a normal service retirement benefit shall be eligible for the accidental disability benefit described in subdivision c of this section if such member has been determined to be eligible for primary social security disability benefits and was disabled as the natural and proximate result of an accident sustained in such active service and not caused by such member's own willful negligence; provided, however, that no member of the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system or the New York state and local employees' retirement system who is otherwise eligible for accidental disability benefits pursuant to this section shall be deemed to be ineligible for such benefits because

such member is eligible for a normal service retirement benefit.

b. A police/fire member in active service, a New York city uniformed correction/sanitation revised plan member in active service or an investigator revised plan member in active service, or a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, who is not eligible for a normal service retirement benefit shall be eligible for the accidental disability benefit either as provided in subdivision a of this section or if such member is physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident sustained in such active service and not caused by such member's own willful negligence.

c. 1. In the case of a member of a retirement system other than the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, or in the case of a member of the New York city employees' retirement system who is a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member, the accidental disability benefit hereunder shall be a pension equal to two percent of final average salary times years of credited service which such member would have attained if employment had continued until such member's full escalation date, not in excess of the maximum years of service creditable for the normal service retirement benefit, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. The provisions of this paragraph shall not apply to New York city enhanced plan members.

2. In the case of a member of the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system (other than a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member), the New York city board of education retirement

system or the New York city teachers' retirement system, the accidental disability benefit hereunder shall be a pension equal to sixty percent of final average salary, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. In the event a disability retiree from any retirement system is not eligible for the primary social security disability benefit and continues to be eligible for disability benefits hereunder, such disability benefit shall be reduced by one-half of such retiree's primary social security retirement benefit, commencing at age sixty-two, in the same manner as provided for service retirement benefits under section five hundred eleven of this article.

3. In the case of a New York city enhanced plan member, the accidental disability benefit hereunder shall be a pension equal to seventy-five percent of final average salary, less one hundred percent of any workers' compensation benefits payable.

d. If a member shall cease to be eligible for primary social security benefits before attaining age sixty-five, or, if receipt of social security benefits is not a condition for disability benefits hereunder, shall engage in such employment or business activity as would render such member ineligible for social security disability benefits (had he or she otherwise been eligible), benefits hereunder shall cease. Provided, however, if such member is otherwise eligible, the state civil service department or appropriate municipal commission shall place the name of such person, as a preferred eligible, on the appropriate eligible lists prepared by it for positions for which such person is stated to be qualified in a salary grade not exceeding that from which such person retired. In such event, disability benefits shall be continued for such member until such member first shall be offered a position in public service at such salary grade.

e. A member, except a New York city enhanced plan member, shall not be eligible to apply for disability benefits under section five hundred six or this section unless such member shall, at the time of application, sign a waiver prepared by the retirement system and approved by the

administrative head of such system pursuant to which such member agrees to waive the benefits of any statutory presumption relating to the cause of disability or eligibility for disability benefits, and a determination of eligibility for benefits hereunder shall be made without regard to any such statutory provision.

f. If disability benefits hereunder are conditioned upon eligibility for receipt of primary social security disability benefits, benefits hereunder shall commence at the time that primary social security disability benefits commence. If disability benefits hereunder are not conditioned upon eligibility for receipt of primary social security disability benefits, benefits hereunder shall commence as of the date of disability retirement.

g. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller or applicable retirement system board of trustees are hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

2. (a)(1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller or applicable retirement system board of trustees to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be

presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller or applicable retirement system board of trustees shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller or applicable retirement system board of trustees according to procedures developed by the comptroller or applicable retirement system board of trustees.

(e) The comptroller or applicable retirement system board of trustees is hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

h. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision g of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this article,

shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

h-1. Notwithstanding any other law, rule or regulation to the contrary, any member who had an active membership in the New York state and local employees' retirement system or the New York state teachers' retirement system, when such member participated in World Trade Center rescue, recovery, or cleanup operations, as such participation is defined in section two of this chapter, who incurred a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined to have been incurred in the performance and discharge of duty and is the natural and proximate result of an accident not caused by such member's own willful negligence, shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of

subdivision g of this section; and (2) dies in active service from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

j. Notwithstanding any inconsistent provision of this chapter or any law, any condition of impairment of health caused by diseases of the lung, resulting in disability or death to a member of the New York city fire department pension fund who is a New York city enhanced plan member, who successfully passed a physical examination on entry into service as a firefighter, which examination failed to disclose evidence of any disease or other impairment of the lung, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

§ 507-a. Disability retirement. a. Subject to the provisions of subdivision e of this section, application for a disability retirement allowance for a member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision of New York state as defined in subdivision i of section eighty-nine of this chapter or for a member serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter or the New York city department of correction may be made by:

1. Such member, or

2. The head of the department in which such member is employed.

b. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. The application must be filed within three months from the last date the member was being paid on the payroll or within twelve months of the last date he was being paid on the payroll provided he was on a leave of absence for medical reasons without pay during such twelve month period provided the member was disabled at the time he ceased being paid.

3. Provided, however, if the retirement system determines that such member was physically or mentally incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by his own willful negligence sustained in the performance of his duties in active service while actually a member of the retirement system the requirement that the member should have ten years of credited service shall be inapplicable.

c. If the retirement system determines that the member is physically or mentally incapacitated for the performance of gainful employment, and that he was so incapacitated at the time he ceased his performance of duties and ought to be retired for disability, he shall be so retired. Each retirement system shall be entitled to adopt appropriate procedures for making the foregoing determination, including but not limited to the conducting of medical examinations, if any, for the purpose of determining initial entitlement of an applicant for disability retirement or to continued entitlement to a disability retirement allowance. Such retirement shall be effective as of a date approved by the head of the retirement system.

d. Upon retirement for disability one of the following retirement

allowances shall be payable:

1. In the case of a member of a retirement system other than the New York city employees' retirement system, if the member has attained age sixty when such retirement becomes effective, his retirement allowance shall be equal to that which he would receive in the case of service retirement at normal retirement age based on his credited service but in no event shall such retirement allowance exceed the amount he would have received pursuant to paragraph two of this subdivision.

2. In the case of a member of a retirement system other than the New York city employees' retirement system, if the member has not attained age sixty when such retirement becomes effective, his retirement allowance shall consist of a retirement allowance which shall equal one-sixtieth of his final average salary multiplied by the number of years of his credited service, which formula shall be used only if the retirement allowance so computed exceeds one-third of his final average salary. If the retirement allowance so computed shall amount to one-third or less of the member's final average salary, his retirement allowance shall be computed upon the basis of the total service which he would have rendered if he continued in service until he attained age sixty provided that the resulting retirement allowance computed by resort to this formula shall not exceed one-third of the member's final average salary.

3. In the case of a member of the New York city employees' retirement system, his retirement allowance shall be equal to the greater of:

(i) one-third of his final average salary; or

(ii) one-sixtieth of his final average salary multiplied by the number of years of his credited service; provided, however, that where such member is otherwise eligible to retire for service, and the retirement allowance which he would receive in the case of service retirement is larger than the retirement allowance he would otherwise receive under this subparagraph or subparagraph (i) of this paragraph, his disability retirement allowance pursuant to this paragraph shall be equal to the retirement allowance he would receive if he had retired for service.

e. Notwithstanding the preceding subdivisions of this section to the contrary, this section shall not apply to a member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member.

§ 507-b. Performance of duty disability retirement. a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as a natural and proximate result of, an act of any incarcerated individual or any person confined in an institution under the jurisdiction of the department of corrections and community supervision or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person described in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an incarcerated individual or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

c. Notwithstanding any provision of this chapter or of any general or

special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a correction officer or security hospital treatment assistant, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

d. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is

proven by competent evidence.

(b) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

(e) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who:

1. has met the criteria of subdivision d of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and

2. has not been retired for more than thirty-five years; and

3. dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for

filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary shall be reduced by any amounts paid or payable to any other beneficiary.

f. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision d of this section; and (2) dies in active service from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 507-c. Performance of duty disability retirement; New York city department of correction. a. Any member in the uniformed personnel in institutions under the jurisdiction of the New York city department of correction, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury,

sustained in the performance or discharge of his or her duties by, or as a natural and proximate result of, an act of any incarcerated individual or any person confined in an institution under the jurisdiction of the department of correction or the department of health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary, subject to the provisions of section 13-176 of the administrative code of the city of New York, provided, however, that the provisions of this section shall not apply to a member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person described in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in subdivision a of this section that may have involved transmission of a specified transmissible disease from an incarcerated individual or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

c. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence unless the contrary be proved by competent evidence.

(b) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this

paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement, a performance of duty disability retirement, or was separated from service with a vested right to deferred payability of a retirement allowance and subsequent to such retirement or separation which is determined by the head of the retirement system to have been a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired or vested had the condition been known and fully developed at the time of the member's retirement or separation from service with vested rights, unless the contrary is proved by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement or vesting as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the head of the retirement system.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or

regulation to the contrary, if a retiree or vestee who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, would have met the criteria if not already retired on an accidental disability, or was separated from service with a vested right to deferred payability of a retirement allowance; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade center condition, as defined in section two of this chapter, that is determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree or vestee shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's or vestee's part. Such retiree's or vestee's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree or vestee shall be deemed to have died on the date of such retiree's or vestee's retirement or separation from service with vested rights. Upon the retiree's or vestee's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service, vested right or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, or vested right to such benefit, including any post-retirement death benefits, since the retiree's or vestee's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), or that will be eligible under the vested right the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; (2) dies in active service or after separating from service with a vested right to deferred payability of a retirement allowance, but prior to the payability of that retirement allowance; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 507-d. Disability benefits. A county may elect to make the benefits provided herein available to the sheriff, undersheriff, deputy sheriffs who are engaged directly in criminal law enforcement activities, and correction officers who are in the employ of the county. Notwithstanding any provision of this chapter or any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in the disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a member covered by this section, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary can be proved by competent evidence.

§ 507-e. Uniformed court officers and peace officers; certain disabilities. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a uniformed court officer or peace officer in the unified court system who contracts any condition of impairment of health caused by diseases of the heart, resulting in disability or death to such court officer or peace officer, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence; provided, however, that prior to entry into service, such member successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

§ 507-f. Accidental disability retirement; Westchester county district attorney investigators. The county of Westchester may elect to make the benefits provided in this section available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney.

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, application may be made not later than two years after the member is first discontinued from service; and provided that the member meets the requirements of paragraph one of this subdivision.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. A person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred, and
- (b) The particulars thereof, and
- (c) The nature and extent of the member's injuries, and
- (d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident, or

(c) If a failure to file notice has been excused for good cause shown, as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon accidental disability retirement shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated contributions, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may be entitled, if any, plus

3. A pension of three-quarters of his or her final average salary. The payment of such pension shall be subject to the provisions of section five hundred seven-g of this article.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter; provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

§ 507-g. Payment of both pensions for accident and other benefits prohibited; Westchester county district attorney investigators. a. If any benefits under the workers' compensation law may be or become payable as the result of accidental disability or accidental death, no payment of any benefit shall be made pursuant to this article on account of such disability or death until there shall have been a final determination of the claim for workers' compensation benefits. Pending such final determination, however, the comptroller may authorize payment of all or any part of the benefits payable under this chapter and, in that event, shall be entitled to reimbursement out of the unpaid installment or installments of compensation due under the workers' compensation law; provided that claim therefor is filed pursuant to the provisions of such law. Any pension, payable pursuant to this article on account of any such disability or death, shall be reduced by the amount of the benefits that are finally determined to be payable under the

workers' compensation law by reason of such disability or death. Such reduction shall be effectuated as follows:

1. Pension installments shall be reduced by the amount of the concurrent workers' compensation benefits.

2. The pension reserve on account of a pension so payable shall be reduced by the amount of the lump sum workers' compensation benefits. In such case, the pension thereafter payable shall be the actuarial equivalent of the pension reserve as so reduced. No such reduction shall be made, however, for the amount of medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches, or apparatus, and of any funeral expense provided under the workers' compensation law in addition to regular compensation benefits, or of any legal fees awarded under the workers' compensation law.

- b. A final determination of the state workers' compensation board that benefits are payable pursuant to the workers' compensation law by reason of the accidental disability or accidental death of a member of the retirement system shall not in any respect be, or constitute, a determination that an accidental disability retirement allowance or an accidental death benefit is payable on account thereof pursuant to the provisions of this article.

§ 507-h. Retirement for disability incurred in performance of duty; Westchester county district attorney investigators. a. The county of Westchester may elect to make the benefits provided herein available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney.

- b. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the

natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is discontinued from service; and provided that the member meets the requirements of subdivision a of this section and this subdivision.

c. Application for retirement for disability incurred in performance of duty may be made by:

1. Such member, or
2. The head of the department in which such member is employed.

d. After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, he or she shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. 1. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the occurrence which is the basis for the disability incurred in the performance of duty, setting forth:

- (a) The time, date, and place of such occurrence, and
- (b) The particulars thereof, and
- (c) The nature and extent of the member's injuries, and
- (d) The alleged disability.

2. The notice herein required need not be given:

- (a) If notice of such occurrence shall be filed in accordance with the

provisions of the workers' compensation law of any state within which the county of Westchester shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for retirement for disability incurred in the performance of duty is filed within one year after the date of the occurrence which forms the basis for the application, or

(c) If a failure to file notice has been excused for good cause shown, as provided by rules and regulations promulgated by the comptroller.

3. Notwithstanding any other provision of law to the contrary, the provisions of this subdivision shall apply to all occurrences before or after the effective date of this section.

f. The retirement allowance payable upon retirement for disability incurred in the performance of duty shall consist of a pension of one-half of his or her final average salary plus an annuity which shall be the actuarial equivalent of the member's accumulated contributions, if any.

g. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement; provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the retirement for disability incurred in performance of duty.

h. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section sixty-three, sixty-four, five hundred seven-f, five hundred seven-g, six hundred seven-e, or six hundred seven-f of this chapter.

i. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

j. A final determination of the comptroller that the member is not entitled to retirement benefits pursuant to this section shall not in any respect be, or constitute, a determination with regard to benefits payable pursuant to section two hundred seven-c of the general municipal law.

k. Nothing in this section shall be deemed to preclude the simultaneous filing of an application for benefits pursuant to any other section of law nor the consideration of such application by the retirement system, including an accidental disability benefit pursuant to section five hundred seven-f of this article.

§ 507-i. Disability benefits; Westchester county district attorney investigators. The county of Westchester may elect to make the benefits provided in this section available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney. Notwithstanding any provision of this chapter or any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in the disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a member covered by this section, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary can be proved by competent evidence.

§ 508. Death benefits. a. A member of a retirement system who is subject to the provisions of this article, exclusive of those members for whom provision is made pursuant to subdivision b of this section, shall, at the time of first becoming a member thereof, make an election, which shall be irrevocable, for coverage for financial protection in the event of death in service, between the two following benefits:

1. A benefit upon the death of a member in service equal to one month's salary for each full year of service up to a maximum of three years' salary upon the completion of thirty-six full years of service, or in the event that a member is eligible to retire without benefit reduction pursuant to section five hundred three of this article, a benefit equal to the pension reserve, if any, which would have been payable to such member had he entered prior to the effective date of this article and died in service; or

2. A benefit upon the death of a member in service equal to the member's salary upon his or her completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system, or the New York state and local employees' retirement system, such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he or she last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he or she last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he or she last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he or she last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he or she last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system, or the New York state and local employees' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten per centum per year of the original benefit otherwise payable, but not below ten per centum of the original benefit otherwise payable.

Notwithstanding any other provision of this paragraph, in the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two

thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. Upon retirement from any retirement system, the benefit in force shall be reduced by fifty per centum; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five per centum, and upon commencement of the third year of retirement, the benefit shall be ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.

3. If a member dies in service without having made the election specified in this subdivision within ninety days after first becoming a member, or within the period prescribed by the retirement system of

which he is a member if such period is less than ninety days, he shall be deemed to have made the election specified in paragraph two.

4. Notwithstanding any provision of this article, a member of a retirement system subject to the provisions of this article who last joined such system on or after January first, two thousand one who is not covered by the death benefit calculation provided in subdivision b of this section shall, upon a qualifying death, be covered by the death benefit calculation provided pursuant to paragraph two of this subdivision and shall not be entitled to elect between the death benefit calculations provided in paragraphs one and two of this subdivision. Any individual who last joined such system before January first, two thousand one who is not covered by the death benefits calculation provided in subdivision b of this section shall be covered, upon a qualifying death, by the death benefit calculation provided by paragraph two of this subdivision unless such individual had timely elected death benefit coverage under the calculation provided by paragraph one of this subdivision and, upon such death, it is determined that the benefit, as calculated under such paragraph one would be greater than as calculated under such paragraph two, in which case the benefit calculated under such paragraph one shall be payable.

b. A member of a retirement system subject to the provisions of this article who is a police officer, firefighter, correction officer, investigator revised plan member or sanitation worker and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provisions of section five hundred four or five hundred five of this article, shall upon completion of ninety days of service be covered for financial protection in the event of death in service pursuant to this subdivision.

1. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law or, in the case of a member of a retirement system other than the New York city employees'

retirement system, or in the case of a member of the New York city employees' retirement system who is a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member, the specific limitations specified for age of entrance into service contained in subparagraphs (b), (c), (d), (e) and (f) of paragraph two of subdivision a of this section.

2. Provided further, notwithstanding any other provision of this article to the contrary, where the member is in a title as defined in subdivision i of section eighty-nine of this chapter, and would have been entitled to a service retirement benefit at the time of such member's death and where such member's death occurs on or after July first, two thousand twenty-six, the beneficiary or beneficiaries nominated for the purposes of this subdivision may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of such member's death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

c. For the purpose of this section, salary shall be the regular compensation earned during the member's last twelve months of service in full pay status as a member or, if he or she had not completed twelve months of service prior to the date of death, but was subject to the provisions of subdivision b of this section, the compensation he or she would have earned had he or she worked for the twelve months prior to such date; provided, however, for the purpose of this section salary shall exclude any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation sick leave, or accumulated vacation credit or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence) and in no event shall it exceed the maximum salary specified in section one hundred thirty of the civil service law, as added by part B of chapter ten of the laws of two thousand eight, or the maximum salary specified in section one hundred thirty of the civil service law, as hereafter amended, whichever is greater.

d. The benefits provided pursuant to this section are in lieu of all other benefits provided by this or any other state or local law exclusive of a benefit provided under the workmen's compensation law, the civil service law or group life insurance; provided, however, a beneficiary of a member eligible for a benefit as the result of a service connected accident, may elect to receive such other benefit in lieu of the benefit provided pursuant to this section.

e. For the purposes of this section:

1. A member who dies while off the payroll shall be considered to be in service provided he or she (a) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (b) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (c) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer; and

2. The benefit payable shall be in addition to any payment made on account of a member's accumulated contributions.

3. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

f. With respect to a member of the New York state and local employees' retirement system who was covered by paragraph two of subdivision a of

the former section five hundred eight of this chapter, as added by chapter eight hundred ninety of the laws of nineteen hundred seventy-six, prior to its repeal pursuant to chapter six hundred seventeen of the laws of nineteen hundred eighty-six and who is entitled under the state constitution to have benefits calculated under such provision as it read prior to such nineteen hundred eighty-six amendment, the lump sum death benefit shall be determined pursuant to subdivision a of this section. With respect to a member of the New York state and local employees' retirement system who was covered by subdivision b of the former section five hundred eight of this chapter, as added by chapter eight hundred ninety of the laws of nineteen hundred seventy-six, prior to its repeal pursuant to chapter six hundred seventeen of the laws of nineteen hundred eighty-six and who is entitled under the state constitution to have benefits calculated under such provision as it read prior to such nineteen hundred eighty-six amendment, the lump sum death benefit shall be determined pursuant to subdivision a of this section.

§ 508-a. Death benefit for vested members who die prior to retirement.

a. A death benefit plus the reserve-for-increased-take-home-pay, if any, shall be payable upon the death of a member of a retirement system who:

1. Died before the effective date of retirement while a member of such retirement system;

2. Had at least ten years of credited service at the time of death;
and

3. Died at a time and in a manner which did not result in the eligibility of the member's estate or any beneficiary to receive any death benefits from such retirement system on account of such death.

b. Benefits provided under this section shall be payable to the member's estate or the beneficiary or beneficiaries nominated by the member on a designation of beneficiary form filed with the administrative head of such retirement system.

c. The amount of the benefit payable pursuant to this section shall be equal to one-half of the amount of the ordinary death benefit which would have been payable had the member's death occurred on the last day of service upon which membership was based.

*** § 508-b. Death benefit for deputy sheriffs employed by Nassau county.** Notwithstanding any provision of law to the contrary, where a deputy sheriff would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 § 508-b's

*** § 508-b. Death benefits for correction officers employed by Nassau county.** a. As used in this section, the term "correction officer" shall mean a person employed by Nassau county with a title of correction recruit, correction officer, correction corporal, correction sergeant, correction lieutenant, or correction captain.

b. Notwithstanding any provision of law to the contrary, where a correction officer would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 § 508-b's

*** § 508-b. Death benefits for correction officers employed by Suffolk county.** 1. As used in this section, the term "correction officer" shall have the same meaning as in subdivision e of section eighty-nine-f of this chapter.

2. Notwithstanding any provision of law to the contrary, where a correction officer would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 § 508-b's

*** § 508-b. Death benefits for deputy sheriffs employed by Suffolk county.** Notwithstanding any provision of law to the contrary, where a deputy sheriff would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 § 508-b's

§ 508-c. Death benefits for fire marshals employed by Nassau county.
a. As used in this section, the term "fire marshal" shall mean a member who is employed by Nassau county with a title of county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal, or division supervising fire marshal.

b. Notwithstanding any provision of law to the contrary, where a fire marshal would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 509. Accidental death benefits. a. The eligible beneficiary of a member in service, or a vested member that dies as a result of a qualifying World Trade Center condition as defined in section two of this chapter, shall be entitled to an accidental death benefit in the form of a pension equal to fifty percent of such member's final average salary if, upon application filed within five years after the death of the member, the head of the retirement system determines that such member:

1. Died before the effective date of retirement, as the natural and proximate result of an accident sustained in the performance of duty in the service upon which membership was based, and

2. Did not cause such accident by his or her own willful negligence.

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of

the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five.

b. If an eligible beneficiary receiving the accidental death benefit hereunder becomes ineligible to continue to receive such benefit, the benefit shall be continued for all other members of the eligible class of beneficiaries and, if none, to each successive class, if any, during their eligibility therefor.

c. If the aggregate benefits under the provisions of this section have not exceeded the amount of the ordinary lump sum death benefit because of the absence of eligible beneficiaries or because those beneficiaries formerly eligible are no longer eligible for payments pursuant to section five hundred one, then the difference between the amounts, if any, paid under this section and the amount of the ordinary lump sum death benefit shall be paid to:

1. The last eligible beneficiary or beneficiaries, if surviving, who were receiving pension payments hereunder or, if none

2. The distributees of the member, if there were no eligible beneficiaries at the member's death, or the persons who would be distributees of the member had he died intestate on the date that the last eligible beneficiary died or became ineligible.

§ 510. Escalation of benefits. a. Service retirement, disability and survivor benefits shall be subject to annual escalation as provided in this section.

b. The term "full escalation date" shall mean:

1. The first day of the month following the date on which a member attains age sixty-five, with respect to service retirement benefits for general members and their beneficiaries.

2. The first day of the month following the date on which a member

completes or would have completed twenty-five years of credited service, with respect to service retirement benefits for police/fire members and their beneficiaries, New York city uniformed correction/sanitation revised plan members and their beneficiaries or investigator revised plan members and their beneficiaries, except for uniformed members of the New York city fire department pension fund and their beneficiaries.

2-a. The first day of the month following the date on which a member completes or would have completed twenty-three years of credited service, with respect to service retirement benefits for uniformed members of the New York city fire department pension fund.

3. The first day of the month following the date on which a disability retiree first becomes eligible for a disability benefit, with respect to members eligible for ordinary or accidental disability benefits and their beneficiaries.

4. The first day of the month following the date on which a beneficiary first eligible for a death benefit becomes eligible for such benefit, with respect to ordinary and accidental death benefits which are paid other than as a lump sum.

c. If the payment of benefits commences on the full escalation date, the benefit shall be increased annually at an escalation rate equal to the lesser of three percent or the increase in the cost-of-living index as provided in subdivision d hereof. In the event of a decrease in the cost-of-living index, the annual benefit shall be decreased by the lesser of three percent or the amount of the decrease in the cost-of-living index, as provided in subdivision d, provided that the benefit, in any event, shall not be reduced below the benefit payable at the initial commencement date. For each month that the benefit commencement date precedes the full escalation date, the escalation rate shall be reduced by one thirty-sixth, and there shall be no escalation where benefits commence more than three years prior to the full escalation date.

d. Cost-of-living index changes shall be computed on a cumulative

basis so that any increases or decreases not reflected in an adjustment to the benefit level shall be carried forward and applied in subsequent years. Benefits shall be escalated commencing with the payment due for the month of April, based on the cost-of-living index as of December thirty-first of the preceding year. If the initial benefit commencement date is May first or later, the initial escalation adjustment for the following April shall be reduced by one-twelfth for benefits commencing on May first, plus a further reduction of one-twelfth for each month the initial benefit commences thereafter.

e. If a member elects to defer the service retirement benefit, after separation from service, for the purpose of becoming eligible for annual escalation, the benefit so deferred shall be escalated at the full escalation rate until the deferred payment date, and thereafter shall be subject to annual escalation as provided in this section.

f. Notwithstanding any other provision of this article, the escalation of any service retirement, disability or death benefit payable in the form of a pension with respect to an elective member shall not result in any increase in the initial benefit payable until such elective member completes or would have completed (had such member continued in service) ten years of creditable service after the date of election of coverage under this article.

g. Notwithstanding any other provision of this article, the annual escalation provided in this section shall not apply to the performance of duty disability retirement provided for in section five hundred seven-b of this article.

h. Notwithstanding any other provision of this article, the annual escalation provided in this section shall not apply to the performance of duty disability retirement provided for in section five hundred seven-c of this article.

i. Notwithstanding any other provision of this article, the annual escalation provided in this section shall not apply to the ordinary disability benefit for New York city enhanced plan members provided for

in subdivision c-1 of section five hundred six of this article or the accidental disability benefit for New York city enhanced plan members provided for in paragraph three of subdivision c of section five hundred seven of this article. Such members who receive such ordinary disability benefit or accidental disability benefit shall have a cost-of-living adjustment for such benefit, which shall be computed in the same manner as provided for by section 13-696 of the administrative code of the city of New York.

§ 511. Coordination with social security benefits. a. A member's service retirement or disability benefit shall be reduced by fifty percent of the primary social security retirement or disability benefit, as the case may be, commencing at (i) age sixty-two, with respect to service retirement benefits which commence at or before such age, or disability benefits paid to a disability retiree who is not eligible for or receiving primary social security disability benefits, or (ii) on the date on which such member first becomes eligible to receive primary social security disability benefits, with respect to disability benefits paid to a disability retiree who is eligible for primary social security disability benefits, or (iii) on the date such member separates from service, if later than age sixty-two.

b. A member's primary social security retirement or disability benefit shall mean the social security benefit computed as of the time of separation from service on benefit levels then in effect. In no event shall a benefit payable under this article be reduced as a result of any increase in social security benefits which occurs after the day on which such member last separated from service. Provided, however, in determining the applicable date pursuant to the preceding sentence, any period of service immediately prior to such separation which was not allowable as credited service pursuant to section five hundred thirteen shall be disregarded.

c. 1. A member's primary social security retirement or disability benefit, for offset purposes, shall be the member's federal social security primary insurance amount, calculated as hereinafter provided.

In determining a member's primary insurance amount, only wages for service with a public employer shall be included during years of such service, and zero earnings shall be used for all other years in the member's federal social security benefit computation period. Provided, however, that a member's primary insurance amount shall in no event exceed the amount determined pursuant to paragraph two.

2. A member's primary insurance amount shall be determined under this paragraph if a lower amount would thereby result. In determining a member's primary insurance amount hereunder, only wages for service with a public employer shall be included during years of such service. The member's highest annual wage earned during any calendar year of the final five calendar years of service with a public employer shall be used for all years of the member's federal social security benefit computation period, if any, falling after such member's separation from such service up to age sixty-two if separation occurs before age sixty-two. Such highest annual wage shall be used for the final calendar year of service and, reduced by five percent per year for each year preceding such final calendar year of service, shall be used for all years of the applicable social security benefit computation period which precede the final calendar year of such member's service with a public employer. The primary insurance amount, as determined above, shall be then reduced by a fraction, the numerator of which shall be the total years and parts thereof (measured in months) of service with a public employer, and the denominator of which shall be the total number of years in the member's social security benefit computation period.

d. The member's primary social security disability benefit, for offset purposes, shall equal the member's primary insurance amount. The member's primary social security retirement benefit, for offset purposes, shall equal the member's primary insurance amount

(i) reduced by five-ninths of one percent for each month, or part thereof, that separation from service upon retirement (or the date benefits commence, if later) precedes attainment of age sixty-five, provided that such reduction, in no event, shall exceed twenty percent, or

(ii) increased by one-twelfth of one percent for each month that

separation from service upon retirement exceeds attainment of age sixty-five.

e. Except as otherwise provided herein, a member's primary insurance amount shall be determined as provided in the federal social security act, and the rules and regulations promulgated thereunder.

f. This section shall not apply to general members in the uniformed correction force of the New York city department of correction or to uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision and security hospital treatment assistants, as those terms are defined in subdivision i of section eighty-nine of this chapter, provided, however, that the provisions of this section shall apply to a New York city uniformed correction/sanitation revised plan member.

g. This section shall not apply to a New York city enhanced plan member who receives the ordinary disability benefit provided for in subdivision c-1 of section five hundred six of this article or the accidental disability benefit provided for in paragraph three of subdivision c of section five hundred seven of this article.

§ 512. Final average salary. a. A member's final average salary shall be the average wages earned by such a member during any three consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary. In determining final average salary pursuant to any provision of this subdivision, where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or

an equal number of months immediately preceding such period shall be substituted in lieu thereof.

b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state employees' retirement system, the New York state and local police and fire retirement system and the New York city teachers' retirement system, a member's final average salary shall be equal to one-third of the highest total wages earned during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary.

c. Notwithstanding the provisions of subdivisions a and b of this section, the final average salary of an employee who has been a member of the New York city employees' retirement system (other than a New York city correction/sanitation revised plan member or an investigator revised plan member) or the New York city teachers' retirement system for less than one year shall be the projected one year salary, with the calculation based upon a twelve month projection of the sums earned in the portion of the year worked. If a member has been employed for more than one year but less than two years, then the member's final average salary shall be the average of the first year and projected second year earnings based upon the calculation above, and if more than two years, but less than three years, then one-third the total of the first two years of employment plus the projected third year's earnings, calculated as indicated above.

d. Subject to the provisions of subdivision c of this section, and notwithstanding the provisions of subdivision a of this section, with respect to members of the New York city employees' retirement system (other than a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member) and the New York city board of education retirement system who are subject to the provisions

of this article, a member's final average salary shall be determined pursuant to the provisions of paragraph thirteen of subdivision e of section 13-638.4 of the administrative code of the city of New York.

§ 513. Credit for service. a. Part-time service.

1. A member who works less than full time, which for the purposes of this article shall mean less than thirty hours a week, shall receive retirement credit for such service in accordance with the following provisions:

(i) A member employed on an hourly basis who works for five hundred or more hours a year and who is on the payroll for a minimum of five months in the year shall receive credit on a prorated basis, but in no event shall less than six hours constitute a full day's retirement credit;

(ii) A member employed on a per diem basis who works at least sixty days in a year and who is on the payroll for a minimum of five months in the year shall receive retirement credit on a day-for-day basis, but in no event shall less than six hours constitute a full day's retirement credit;

(iii) If the annual salary of a member paid on a basis other than per diem or per hour would be less than the product of the state's minimum wage during such period and two thousand hours, the presumption shall be that such a member is a part-time employee and any retirement credit granted shall be prorated; provided, however, such a member shall not receive greater credit than a member working on a per diem basis.

2. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer.

Notwithstanding any other provisions of this section, with respect to members of the New York state employees' retirement system, teachers as defined in section one hundred thirty-six of the civil service law, employed full time for the school year, shall be deemed on the payroll of the state, for twelve months in crediting retirement service credit for service rendered. For the purposes of this paragraph the comptroller

shall define school year by regulation.

* 2-a. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provision of this section to the contrary, with respect to members of the New York state and local employees' retirement system, a member who is employed by a community college as defined in section six thousand three hundred one of the education law, and who is in the classified service as that term is defined in section forty of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college for twelve months in crediting retirement service credit for service rendered.

* NB There are 2 paragraph 2-a's in sb a

* 2-a. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provision of this section to the contrary, a member of the New York state and local employees' retirement system who is employed by a community college as defined in section six thousand three hundred one of the education law, and who is in the unclassified service of the civil service as defined in subdivision (i) of section thirty-five of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college for twelve months in crediting retirement service credit for service rendered.

* NB There are 2 paragraph 2-a's in sb a

3. The membership of any member who is subject to the provisions of this subdivision a, or to the provisions of any rule or regulation promulgated and approved in accordance with the provisions of subdivision e of this section, shall be continued and shall not be terminated for so long as such member is actually in service during the

period this article is in effect.

4. Notwithstanding any other provision of law, for the purposes of retirement service credit, retirement contribution and final average salary of members of the New York state and local employees' retirement system, a member who has been granted service credit for a period of time for which he or she received compensation or wages shall not lose such credit by virtue of the fact that the employer has subsequently been reimbursed by a workers' compensation carrier with respect to all or a portion of the compensation or wages paid for such period.

5. Notwithstanding any other provision of law, for the purposes of retirement credit, retirement contribution and final average salary under this chapter, the compensation of a member of the New York city employees' retirement system who is either (i) a Triborough bridge and tunnel member as defined in section six hundred four-c of this chapter as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five or as defined in section six hundred four-c of this chapter as added by chapter ninety-six of the laws of nineteen hundred ninety-five or to whom article sixteen of this chapter is applicable, or (ii) a New York city transit authority member as defined in section six hundred four-b of this chapter, for the period during which he or she receives a workers' compensation benefit shall be deemed to be the full compensation or salary such employee would have earned or been entitled to receive had he or she not received the workers' compensation benefit. During the period of time a member receives payment of such workers' compensation benefit, such member shall be deemed on the payroll in full status for the aforementioned purposes.

b. Previous service. A member shall be eligible to obtain retirement credit hereunder for previous service with a public employer if retirement credit had previously been granted for such service or if such service which would have been creditable in one of the public retirement systems of the state, as defined in subdivision twenty-three of section five hundred one of this article, at the time such service was rendered, if the individual had been a member of such retirement system and the member has rendered a minimum of two years of credited

service after July first, nineteen hundred seventy-six or after last rejoining a public retirement system, if later; provided, however, retirement credit may be granted for service which predates the date of entry into the retirement system if such service is otherwise creditable and was rendered by an employee of a public employer during which employment he was ineligible to join a public retirement system provided that such public employer was participating in a public retirement system of the state at the time of such employment, or is so participating at the time that credit for such previous service is being sought.

* b-1. Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member eligible to purchase credit for previous service with a public employer pursuant to subdivision b of this section or to purchase credit for military service pursuant to article twenty of this chapter, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to the completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of the agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service -- expires per ch. 627/2007 §22

c. Creditable service. 1. A member shall not be eligible to obtain credit for service with a public employer other than the state of New York, a political subdivision thereof, a public benefit corporation, or a participating employer; provided, however, military service with the federal government may be credited pursuant to section two hundred forty-three of the military law up to a maximum of four years; and

further provided that retirement credit may be granted for service with an agency located within the state of New York currently specified in law as providing retirement credit for service.

2. (i) A police/fire member shall be eligible to obtain credit for service with a public employer described in paragraph one only if such service, if rendered prior to July first, nineteen hundred seventy-six by a police/fire member who was subject to article eleven of this chapter, would have been eligible for credit in the police/fire retirement system or plan involved.

(ii) Notwithstanding any other provision of law to the contrary, a member of the New York city fire department pension fund subject to this article shall be eligible to obtain credit for any period of allowable service rendered as an EMT member, as such term is defined in paragraph one of subdivision a of section six hundred four-e of this chapter, as added by chapter five hundred seventy-seven of the laws of two thousand, which immediately precedes service in the uniformed force of the fire department and such service shall be deemed to be in service of the uniformed force of the fire department for purposes of eligibility for benefits and to determine the amount of benefits under the New York city fire department pension fund, provided that such member pays or transfers into the New York city fire department pension fund all member contributions set forth in section five hundred seventeen of this article plus interest, at a rate of five percent per annum. For a member who transfers such contributions from the New York city employees' retirement system to the New York city fire department pension fund or for a member who withdraws such contributions from the New York city employees' retirement system, such member's membership in the New York city employees' retirement system shall cease upon such transfer or withdrawal and such member shall retain no credited service in such system.

(iii) The provisions of this paragraph shall apply to a member with ten or more years of credited service in the New York city employees' retirement system, notwithstanding the provisions of section six hundred thirteen of this chapter or any other provision of law to the contrary.

(iv) Notwithstanding any other provision of law to the contrary, a member of the New York city police pension fund subject to this article

shall be eligible to obtain credit for any period of service rendered as a New York city school safety agent or supervisor of school safety agents, a New York city corrections officer or supervisor of New York city corrections officers, a New York city traffic enforcement agent or supervisor of traffic enforcement agents, or in the New York city police department cadet program in the title of police cadet program or police cadet program II, which immediately precedes service in the uniformed force of the New York city police department, and such service shall be deemed to be in service of the uniformed force of the New York city police department for purposes of eligibility for benefits and to determine the amount of benefits under the New York city police pension fund, provided that such member pays or transfers into the New York city police pension fund all member contributions set forth in section five hundred seventeen of this article plus interest, at a rate of five percent per annum. For a member who transfers such contributions from the New York city employees' retirement system to the New York city police pension fund or for a member who withdraws such contributions from the New York city employees' retirement system, such member's membership in the New York city employees' retirement system shall cease upon such transfer or withdrawal and such member shall retain no credited service in such system.

d. To facilitate administration of the provisions of this section the head of a retirement system may make interpretations of the provisions of this section which are consistent with the intent of this section, but such interpretations shall not take effect unless publicly promulgated.

f. Notwithstanding any other provision of law, any member of the New York state and local employees' retirement system who is subject to the provisions of this article and who is employed by a school district, a board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section four thousand two hundred one of the education law, or a school district as enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven as amended to date, shall have their service credit for

service rendered on or after January first, nineteen hundred ninety determined by dividing the number of days worked in a school year by one hundred eighty. For the purpose of this section a school year will begin on July first and end the following June thirtieth. No more than one year of service may be credited during any such fiscal year. Credit for service rendered before January first, nineteen hundred ninety shall be determined in the same manner if a person eligible for such benefit shall file the appropriate application with the state comptroller on or before August second, nineteen hundred ninety-six and, within five years of filing such application, make payment for all costs necessary to finance the receipt of such service credit.

g. The provisions of paragraph one of subdivision a of this section shall not apply to members of the New York city employees' retirement system or the New York city board of education retirement system who are subject to the provisions of this article. The crediting of service for such members of such retirement systems shall be governed by the applicable provisions of subdivision c of section 13-638.4 of the administrative code of the city of New York, and the other applicable provisions of such code and of the rules and regulations of such board of education retirement system.

h. Notwithstanding any other provision of this section, any general member in the uniformed correction force of the New York city department of correction and any member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member, who is absent without pay for a child care leave of absence pursuant to regulations of the New York city department of correction shall be eligible for credit for such period of child care leave provided such member files a claim for such service credit with the retirement system by December thirty-first, two thousand five or within ninety days of the termination of the child care leave, whichever is later, and contributes to the retirement system an amount which such member would have contributed during the period of such child care leave, together with interest thereon. Service credit provided pursuant to this subdivision shall not exceed one year of credit for each period of authorized child care leave. In the event

there is a conflict between the provisions of this subdivision and the provisions of any other law or code to the contrary, the provisions of this subdivision shall govern.

§ 514. Options. a. A member, or if he or she is an incompetent, the member's spouse or the committee of such member's property, may elect to receive the actuarial equivalent of the retirement allowance at the time of retirement, in the form of a smaller retirement allowance payable to such member for life and one of the following optional settlements:

Option one. Upon the member's death, a retirement allowance in an amount equal to that paid to the member shall be paid for life to the beneficiary so designated.

Option two. Upon the member's death, a retirement allowance of ninety percent or less (measured in increments of not less than ten percent) of the amount paid to such member shall be paid for life to the beneficiary so designated.

Option three. A five-year certain option under which payment is made to the member for life but is guaranteed for a minimum of five years following retirement.

Option four. A ten-year certain option under which payment is made to the member for life but is guaranteed for a minimum of ten years following retirement.

Option five. Upon the member's death, a retirement allowance in an amount equal to fifty percent or one hundred percent of that paid to the member shall be paid for life to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement. Upon the death, prior to the death of the member, of said person so nominated, the member shall begin receiving, in lieu of the allowance then payable, an allowance equal in amount to that which would have been payable if no optional modification of the retirement allowance were in effect.

a-1. A member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system who retires pursuant to the provisions of this article, may elect, in lieu of the options set forth in subdivision a of this section, the following optional settlement:

Alternative Option. The actuarial equivalent of the member's retirement allowance at the time of retirement, in the form of a smaller retirement allowance payable to such members for life and some other benefit or benefits paid either to the member or to such person or persons as he shall nominate, provided such other benefit or benefits, together with such smaller allowance, shall be certified by the actuary of such retirement system to be of equivalent actuarial value to his retirement allowance and shall be approved by the head of such retirement system and provided further that nothing herein shall require such retirement system to pay a benefit in violation of paragraph nine of subsection a of section four hundred one of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 401(a)(9).

b. Upon attainment of early retirement age or age sixty-two, if earlier, a member who has not terminated employment or who is not receiving service retirement, disability or vested benefits may elect a survivor annuity under option one or option two to be payable on such member's death during the period commencing with attainment of early retirement age or age sixty-two, if earlier, and ending upon (i) the attainment of normal retirement age or (ii) the date upon which service retirement or deferred vested benefits commence, if earlier or later than normal retirement age. In the event of an election hereunder, the benefits payable to the member or the member's survivor shall be actuarially reduced to reflect the cost of the survivor annuity elected. Such survivor annuity shall be paid in lieu of any other death benefit available, unless such death benefit is greater than such survivor annuity, in which event the applicable death benefit shall be paid in lieu of the survivor benefit hereunder.

c. No option hereunder shall be permitted whereby the member would

receive less than fifty percent of the pension reserve during such member's life expectancy. Provided, however, the preceding sentence shall not apply if the surviving beneficiary is the member's spouse.

** d. Notwithstanding any other provision of this article, an option selection previously filed by a member or retired member subject to the provisions of this section may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever is later.

** NB There are 2 sb d's

** d. Notwithstanding any other provision of this article, an option selection previously filed by a member or retired member of the New York city teachers' retirement system or the New York city board of education retirement system subject to the provisions of this section may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever date is later.

** NB There are 2 sb d's

§ 515. Optional retirement program. a. Any optional retirement program authorized by state law which, on the day before the effective date of this article, would be available to an eligible employee subject to the provisions of article eleven in lieu of joining a public retirement system of the state, will continue to be available to eligible employees subject to this article during the period this article is in effect.

c. Nothing herein contained shall be construed as permitting an employee who previously elected coverage under an optional retirement program to elect coverage under a public retirement system of the state.

§ 516. Vesting. a. A member who has five or more years of credited service upon termination of employment shall be entitled to a deferred vested benefit as provided herein.

b. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article. Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

c. The deferred vested benefit of police/fire members, New York city police/fire revised plan members, New York city uniformed correction/sanitation revised plan members or investigator revised plan members shall be a pension commencing at early retirement age equal to two and one-tenths percent of final average salary times years of credited service, less fifty percent of the primary social security

retirement benefit commencing at age sixty-two, as provided in section five hundred eleven of this article. A police/fire member, a New York city police/fire revised plan member, a New York city uniformed correction/sanitation revised plan member or investigator revised plan member may elect to receive his vested benefit commencing at early retirement age or age fifty-five. If the vested benefit commences before early retirement age, the benefit shall be reduced by one-fifteenth for each year, if any, that the member's early retirement age is in excess of age sixty, and by one-thirtieth for each additional year by which the vested benefit commences prior to early retirement age. If such vested benefit is deferred until after such member's normal retirement age, the benefit shall be computed and subject to annual escalation in the same manner as provided for an early retirement benefit pursuant to subdivision c of section five hundred five of this article.

d. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision, as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years, or for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, a pension equal to the sum of thirty-five per centum and one-fiftieth of final average salary for each year of service in excess of twenty, but not in excess of thirty, times final average salary times years of credited service. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under

subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under jurisdiction of the department of corrections and community supervision, as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service. Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

e. In no event shall the vested retirement allowance payable without optional modification be less than the actuarial equivalent of the total which results from the member's contributions accumulated with interest at five percent per annum compounded annually to the date of retirement.

§ 517. Member contributions. * a. Members shall contribute three percent of annual wages to the retirement system in which they have membership, provided that such contributions shall not be required for more than thirty years, for general members, or twenty-five years, for police/fire members, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

1. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

2. members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;

3. members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;

4. members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and

5. members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-six, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

The head of each retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

* NB Effective until October 1, 2026

* a. Members shall contribute three percent of annual wages to the retirement system in which they have membership, provided that such contributions shall not be required for more than thirty years, for

general members, or twenty-five years, for police/fire members, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

1. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

2. members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute three and one-half per centum of annual wages;

3. members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall contribute four and one-half per centum of annual wages;

4. members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute five and three-quarters per centum of annual wages; and

5. members with wages greater than one hundred thousand dollars per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer.

Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system on or after April first, two thousand

twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-eight, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year, except that beginning on and after October first, two thousand twenty-six, for members who first became members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the contributions in any current plan year (April first to March thirty-first) shall be determined by reference to the base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

(i) members with wages of seventy-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(ii) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute four per centum of annual wages;

(iii) members with wages greater than one hundred thousand dollars per annum but not more than one hundred twenty-five thousand dollars per annum shall contribute five and one-quarter per centum of annual wages; and

(iv) members with wages greater than one hundred twenty-five thousand dollars per annum shall contribute five and three-quarters per centum of annual wages.

Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but from April first, two thousand twenty-two through March thirty-first, two thousand twenty-eight shall not include any overtime payments.

The head of each retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

* NB Effective October 1, 2026

b. In the event of termination of employment, other than as a result

of transfer to another public employer, a member who is not vested or entitled to any other benefit under this article may withdraw his accumulated contributions pursuant to regulations promulgated by the head of the retirement system involved. In the event membership in a public retirement system shall terminate, other than as a result of transfer to another public employer, any contributions remaining to the credit of the member shall be refunded as specified by the rules or regulations of the system involved. For the purpose of such withdrawal or refund, such contributions, commencing on the date of this act or the date such member first makes contributions hereunder, whichever is later, together with the balances on such date from any contributions theretofore made, shall be credited with interest at the rate of five percent per annum.

c. Upon withdrawal of contributions by a member pursuant to subdivision b, membership in the public retirement system involved shall cease. A former member who thereafter returns to public service shall not receive any credit for previous service to which such withdrawn or refunded contributions applied unless such member applies therefor and repays the amounts so withdrawn or refunded, together with interest through the date of repayment at the rate of five percent per annum. Notwithstanding any other provision of law to the contrary, a member may, upon separation from service of the state or a participating employer, withdraw his or her member contributions pursuant to the applicable provision of law until such date as such individual has accrued ten years of credited service in such system. However, the withdrawal of contributions pursuant to this section by an individual who has accrued at least five years of creditable service shall terminate his or her membership and all rights in such retirement system in the same manner as withdrawal of contributions would terminate the membership of an individual who has not attained vested status. Nothing in this section shall be construed as permitting an individual who has accrued at least ten years of credit in a retirement system to withdraw member contributions.

d. Notwithstanding any other provision of this article, a member shall be entitled to withdraw any excess contributions within six months of

becoming subject to this article. Thereafter, such contributions, and interest thereon, may only be withdrawn upon separation from service. Upon retirement, such excess contributions, and any interest thereon, may be withdrawn in a single lump sum, or at the election of the member may be paid as an annuity under an option authorized pursuant to section five hundred fourteen of this article. The retirement system may at any time use any such excess contributions to offset a deficit of additional member contributions as required pursuant to sections five hundred four-a, five hundred four-b, and five hundred four-d of this article. The use of basic member contributions to offset a deficit of additional member contributions does not affect the contributions' tax designation pursuant to section 414(h) of the Internal Revenue Code.

e. Notwithstanding any other provision of law, except as provided in section five hundred seventeen-b of this article, except as provided in section five hundred seventeen-c of this article, a member shall not be permitted to borrow any portion of the contributions which are subject to this section.

** f. * 1. Notwithstanding any other provision of law, each participating employer shall pick up the member contributions required on and after the effective date of this subdivision to be made under this section by its employees and shall do so by reducing the salary of each of its employees to which this section is applicable by that amount which each such employee is required to contribute under this section. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees under this section and shall be treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code.

* NB Effective until notice of ruling by Internal Revenue Service per ch. 627/2007 §22

* 1. Notwithstanding any other provision of law, each participating employer shall pick up the member contributions required on and after the effective date of this subdivision to be made under this section by its employees, or required to be made for the purchase of credit for previous service or military service by its employees pursuant to an irrevocable payroll deduction agreement under subdivision b-1 of section

five hundred thirteen of this article, and shall do so by reducing the salary of each of its employees to which this section, or subdivision b-1 of section five hundred thirteen of this article, is applicable by that amount which each such employee is required to contribute under this section, or subdivision b-1 of section five hundred thirteen of this article. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees under this section, or subdivision b-1 of section five hundred thirteen of this article, and shall be treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code.

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22

2. Each participating employer of any employee (subject to this article) who, in lieu of joining a public retirement system of the state, elected an optional retirement program to which their employers are thereby required to contribute, shall pick up the employee contributions thereto which would otherwise be mandatory under the provisions of state law and shall do so by reducing the salary of such employee by the amount of employee contributions to such optional retirement program which would otherwise be mandatory under the provisions of state law. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees and shall be treated as employer contributions in determining income tax treatment under section 414(h) of the internal revenue code.

3. With the exception of federal income tax treatment, the employee contributions picked up or paid pursuant to this subdivision shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* 4. The provisions of this subdivision f shall not apply to a

police/fire member or a member of the New York city employees' retirement system who is a member of the uniformed correction force or of the uniformed force of the department of sanitation, as defined in subdivisions thirty-nine and sixty-two of section 13-101 of the administrative code of the city of New York.

* NB Effective until chapter 525/2011 § 2 takes effect

* 4. The provisions of this subdivision shall not apply to a police/fire member who is a member of either the New York city police pension fund or the New York city fire department pension fund or a member of the New York city employees' retirement system who is a member of the uniformed correction force or of the uniformed force of the department of sanitation, as defined in subdivisions thirty-nine and sixty-two of section 13-101 of the administrative code of the city of New York.

* NB See ch 525/2011 § 7 for effectiveness

** NB Expires per chap 782/88 § 8

g. Interest shall accrue from the date of death until the date of payment on accumulated member contributions refunded pursuant to this section upon the death of a member, where no death benefit is payable on account of such death. Interest shall accrue at the rate provided in subdivision one of section three-a of the general municipal law.

h. Notwithstanding any inconsistent provision of subdivision a of this section, New York city enhanced plan members who are members of the New York city fire department pension fund shall, as of the effective date of this subdivision pursuant to chapter two hundred ninety-eight of the laws of two thousand sixteen, contribute three percent of annual wages to the pension fund in which they have membership, plus an additional percentage of annual wages as set forth in the chapter of the laws of two thousand sixteen which added this subdivision.

i. Notwithstanding any inconsistent provision of subdivision a of this section, New York city enhanced plan members who are members of the New York city police pension fund shall, as of the effective date of this subdivision, contribute three percent of annual wages to the pension fund in which they have membership, plus an additional percentage of

annual wages as set forth in the chapter of the laws of two thousand seventeen which added this subdivision.

§ 517-a. Termination of membership. With respect to the New York state employees' retirement system and the New York state and local police and fire retirement system, membership in the retirement system shall cease upon the occurrence of any one of the following conditions:

1. When seven years have elapsed since a member has performed active service provided, however, that no part of such seven year period shall run during such time as a member, with at least five years of member service credit, shall serve as an officer or employee of the federal government or the United Nations or other international organizations of which the United States of America is a member.

2. When a member shall die.

3. When a member shall retire.

4. When a member, who is not vested, withdraws accumulated contributions in accordance with the provisions of section five hundred seventeen of this article. If such person subsequently rejoins the retirement system within five years from the date he discontinued service with the state or a participating employer, such person shall be entitled to every retirement right, benefit and privilege which would have been available to him had he reentered membership on the date of such discontinuance from service.

§ 517-b. Loans to members of a teachers' retirement system. a. 1. A member of a teachers' retirement system in active service who has credit for at least one year of member service may borrow, no more than once during each twelve-month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section five hundred seventeen of this article (including interest credited at the rate set forth in subdivision c of section five hundred seventeen compounded

annually) and not less than one thousand dollars.

2. A member of the New York state teachers' retirement system who first joins such system on or after July first, two thousand twenty-two in active service and who has credit for at least one year of member service may borrow, no more than once during each twelve-month period, an amount, not less than one thousand dollars and which would not cause the balance owed pursuant to this section, including any amounts borrowed then outstanding to exceed (i) fifty percent of the member's total contributions made pursuant to section five hundred seventeen of this article (including interest credited at the rate set forth in subdivision c of this section compounded annually); or (ii) fifty thousand dollars, whichever is less.

b. An amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid in equal installments which shall be made by the borrower directly to the retirement board or through regular payroll deduction. Such installments shall be in such amount as the retirement board shall approve; however, they shall be at least (i) two percent of the member's contract salary, and (ii) sufficient to repay the amount borrowed, together with interest on unpaid balances thereof within a period not in excess of five years. In the event of default such retirement board shall be authorized to collect such payments due from the employer of such member through payroll deduction and such member shall forfeit all future entitlement to borrow from the retirement system until the unpaid balance of the loan outstanding at the time of default is fully paid. Such retirement board, at any time, may accept payments on account of any loan in addition to the installments fixed for repayment thereof. All payments of principal and interest, at the lower of the rates set forth in either subdivision c of section five hundred seventeen of this article or subdivision c of this section, made by the member shall be credited to his or her account as principal or interest. Any additional interest paid by the member shall be credited to the appropriate fund of the retirement system.

c. The rate of interest payable upon loans made pursuant to this section shall: (i) for members of the New York state teachers'

retirement system, be one percent less than regular interest pursuant to paragraph (b) of subdivision nine of section five hundred one of the education law, however in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article; (ii) for members of the New York city teachers' retirement system, be one percent less than the regular interest rate established pursuant to paragraph (d) of subdivision twenty-two of section 13-501 of the administrative code of the city of New York for such system, however in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article. Whenever there is a change in the interest rate it shall be applicable to loans made or renegotiated after the date of such change in the interest rate.

d. A service charge payable upon loans made pursuant to this section shall be set by the retirement board in an amount sufficient to cover the cost to the retirement system of administering the loans. Such charge shall be paid to the retirement system when the loan is made or in equal installments over the period the loan is outstanding. The amount of the service charge shall be credited to the fund from which administrative expenses are paid.

e. Each loan made pursuant to this section shall be insured against the death of the member in an amount equal to the amount of the loan outstanding at any given time; with the exception that until thirty days have elapsed after the making thereof, no part of the loans shall be insured. Such insurance shall be provided by the retirement board through the retirement system. Upon the death of the member, the amount of insurance so payable shall be credited to his or her account. The premium payable by the member for such insurance shall be set by the retirement board at a rate not to exceed one percent of the amount loaned.

Such premium shall be prorated to July first next and shall be paid to the retirement system in equal installments over the period of the loan. Thereafter, a premium not to exceed one percent per annum of the present value of the outstanding loan as of July first shall be paid in the same

manner each succeeding year until such loan is repaid or the member is retired.

The retirement board shall, at least annually, review such premium rate, and may, in its discretion, increase or reduce the premium, modify the terms or conditions of coverage, or discontinue the insurance of loans. In no event shall this subdivision impose any obligation upon the retirement board to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms or conditions.

f. Such a retirement board is authorized to establish special funds as may be necessary to carry out the provisions of subdivisions d and e of this section.

g. Whenever a member of such a retirement system, for whom a loan is outstanding, becomes entitled to the return of his or her contributions because of withdrawal from such system or because of death, the amount of any loan outstanding on such date including accrued interest as provided in subdivision c of this section shall be construed to already have been returned to such member and the refund of contributions to which he shall then be entitled shall be the net amount of such contributions together with interest thereon pursuant to subdivision c of section five hundred seventeen of this article.

h. Notwithstanding the provisions of section five hundred sixteen of this article, whenever a member of such a retirement system, for whom a loan is outstanding, retires, the retirement allowance payable without optional modification shall be reduced by a life annuity which is actuarially equivalent to the amount of the outstanding loan (all outstanding loans shall continue to accrue interest charges until retirement), such life annuity being calculated utilizing the interest rate on thirty-year United States treasury bonds as of January first of the calendar year of the effective date of retirement and the mortality tables for options available under section five hundred fourteen of this article. Notwithstanding the preceding sentence, in the case of the New York state teachers' retirement system, commencing January first, two

thousand four, the interest rate on ten year United States treasury obligations as of January first of the calendar year of the effective date of retirement shall be used. Notwithstanding the preceding sentence, in the case of the New York state teachers' retirement system, commencing January first, two thousand sixteen, the average annual interest rate on ten year United States treasury obligations for the days during the calendar year that precedes the calendar year in which the retirement becomes effective shall be used.

i. Such a retirement board is authorized to adopt such rules and regulations as it finds to be necessary in administering the provisions of this section. Anything in this section notwithstanding, the retirement board of the New York state teachers' retirement system is authorized to adopt rules and regulations permitting a loan at any time prior to retirement to a member who is not in active service, provided such loan would otherwise be permitted under this section and under applicable provisions of the Internal Revenue Code relating to loans from pension plans.

j. Such a retirement board shall discharge any evidence of a loan to member pursuant to this subdivision upon the satisfaction of the obligation of the member thereunder.

k. The retirement system shall have no right to bring suit in any court against any member to enforce the amount due under this section and the retirement system's sole remedy upon death, retirement or withdrawal shall be to offset the amount outstanding including interest from the member's account or other benefits payable to or on behalf of the member as provided in this section.

§ 517-c. Loans to members of certain retirement systems. a. For the purposes of this section, the term "retirement board" or "board" shall mean the head of the retirement system as defined in subdivision thirteen of section five hundred one of this article.

b. 1. A member of the New York state and local employees' retirement

system, the New York state and local police and fire retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city police pension fund in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section five hundred seventeen of this article (including interest credited at the rate set forth in subdivision c of such section five hundred seventeen compounded annually) and not less than one thousand dollars, provided, however, that the provisions of this section shall not apply to a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member.

2. A member of the New York state and local employees' retirement system who first joins such system on or after January first, two thousand eighteen, or a member of the New York city police pension fund who first joins such system on or after January first, two thousand eighteen in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount, not less than one thousand dollars and which would not cause the balance owed pursuant to this section, including any amounts borrowed then outstanding, to exceed (i) fifty percent of the member's total contributions made pursuant to section five hundred seventeen of this article (including interest credited at the rate set forth in subdivision c of such section five hundred seventeen compounded annually); or (ii) fifty thousand dollars, whichever is less.

c. An amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid in equal installments which shall be made by the borrower directly to the retirement board or through regular payroll deduction. Such installments shall be in such amount as the retirement board shall approve; however, they shall be at least (a) two percent of the member's contract salary, and (b) sufficient to repay the amount borrowed, together with interest on unpaid balances thereof within a period not in excess of five years. In the event of default, such retirement board shall be authorized to collect such payments due from the employer of such member through payroll deduction and such member

shall forfeit all future entitlement to borrow from the retirement system until the unpaid balance of the loan outstanding at the time of default is fully paid. Such retirement board, at any time, may accept payments on account of any loan in addition to the installments fixed for repayment thereof. All payments of principal and interest at the lower of the rates set forth in either subdivision c of section five hundred seventeen of this article or subdivision d of this section made by the member shall be credited to his or her account as principal or interest. Any additional interest paid by the member shall be credited to the appropriate fund of the retirement system.

d. The rate of interest payable upon loans made pursuant to this section shall: (1) for members of the New York state and local employees' retirement system, be one percent less than the valuation rate of interest adopted for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article; (2) for members of the New York city employees' retirement system, be one percent less than the regular interest rate established pursuant to paragraph (c) of subdivision twelve of section 13-101 of the administrative code of the city of New York for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article; (3) for members of the New York city board of education retirement system, be one percent less than the regular interest rate established pursuant to subparagraph four of paragraph (b) of subdivision sixteen of section twenty-five hundred seventy-five of the education law for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article; and (4) for members of the New York city police pension fund, be the regular interest rate established pursuant to subdivision b of section 13-638.2 of the administrative code of the city of New York for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article. Whenever there is a change in the interest rate, it shall be applicable to loans made or renegotiated after the date of such change in the interest rate.

e. A service charge payable upon loans made pursuant to this section shall be set by the retirement board in an amount sufficient to cover the cost to the retirement system of administering the loans. Such charge shall be paid to the retirement system when the loan is made or in equal installments over the period the loan is outstanding. The amount of the service charge shall be credited to the fund from which administrative expenses are paid.

f. Each loan made pursuant to this section shall be insured against the death of the member in an amount equal to the amount of the loan outstanding at any given time; with the exception that until thirty days have elapsed after the making thereof, no part of the loans shall be insured. Such insurance shall be provided by the retirement board through the retirement system. Upon the death of the member, the amount of insurance so payable shall be credited to his or her account. The premium payable by the member for such insurance shall be set by the retirement board at a rate not to exceed one percent of the amount loaned.

Such premium shall be prorated to July first next, or such other date fixed by the retirement board as is appropriate, and shall be paid to the retirement system in equal installments over the period of the loan. Thereafter, a premium not to exceed one percent per annum of the present value of the outstanding loan as of July first, or such other appropriate date, shall be paid in the same manner each succeeding year until such loan is repaid or the member is retired.

The retirement board shall, at least annually, review such premium rate, and may, in its discretion, increase or reduce the premium, modify the terms or conditions of coverage, or discontinue the insurance of loans. In no event shall this subdivision impose any obligation upon the retirement board to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms or conditions.

g. Such a retirement board is authorized to establish such special funds as may be necessary to carry out the provisions of subdivisions e

and f of this section.

h. Whenever a member of such a retirement system, for whom a loan is outstanding, becomes entitled to the return of his or her contributions because of withdrawal from such system or because of death, the amount of any loan outstanding on such date, including accrued interest as provided in subdivision d of this section, shall be construed to already have been returned to such member and the refund of contributions to which he shall then be entitled shall be the net amount of such contributions together with interest thereon pursuant to subdivision c of section five hundred seventeen of this article.

i. Notwithstanding the provisions of section five hundred sixteen of this article, whenever a member of such a retirement system, for whom a loan is outstanding, retires, the retirement allowance payable without optional modification shall be reduced by a life annuity which is actuarially equivalent to the amount of the outstanding loan (all outstanding loans shall continue to accrue interest charges until retirement), such life annuity being calculated utilizing the interest rate on thirty year United States treasury bonds as of January first of the calendar year of the effective date of retirement and the mortality tables for options available under section five hundred fourteen of this article. A retiree of the New York city employees' retirement system, board of education retirement system of the city of New York, the New York state and local employees' retirement system, or the New York city police pension fund whose benefit has been so reduced may repay the outstanding balance of the loan at any time. Benefits payable after the repayment of the loan shall not be subject to the actuarial reduction required by this subdivision.

j. Such a retirement board is authorized to adopt such rules and regulations as it finds to be necessary in administering the provisions of this section.

k. Such a retirement board shall discharge any evidence of a loan to a member pursuant to this section upon the satisfaction of the obligation of the member thereunder.

l. The retirement board shall have no right to bring suit in any court against any member to enforce the amount due under this section, and the retirement system's sole remedy upon death, retirement or withdrawal shall be to offset the amount outstanding including interest from the member's account or other benefits payable to or on behalf of the member as provided in this section.

§ 518. Election of coverage under article. a. Except as provided in subdivision c hereof, a member of a public retirement system of the state on June thirtieth, nineteen hundred seventy-six who is not subject to the provisions of article eleven of this chapter may elect to become subject to this article by submitting such election on or before June first, nineteen hundred seventy-eight. An election hereunder shall be made in the form and manner prescribed in rules and regulations promulgated by the head of the retirement system to which such member belongs at the time of election. Such election shall be irrevocable thirty days after it is received by the system involved. Provided, however, that an election may not be made by any employee who is not employed by a participating employer, or who is employed by a participating employer described in subdivision c of section five hundred of this article.

b. Contributions made by a member prior to an election pursuant to subdivision a of this section, together with any interest thereon through the date of election, shall thereafter become subject to the provisions of section five hundred seventeen of this article.

c. On and after the date on which this act shall take effect, no member of a public retirement system of the state shall elect to become subject to this article.

§ 519. Effect of other laws. 1. Any other provision of this chapter, of the state education law or of the administrative code of the city of New York, or rules and regulations thereunder, relating to the

reemployment of retired members, transfer of members and reserves between systems and procedural matters shall apply to members covered under this article during the duration thereof unless inconsistent herewith.

2. Notwithstanding any other provision of law;

(i) If a person who last became a member of a public retirement system of the state before July first, nineteen hundred seventy-three retires, such person shall, upon re-entry to membership in a public retirement system of the state, be subject to all retirement rights, privileges and obligations which would pertain to such person had he reentered membership in such retirement system on June thirtieth, nineteen hundred seventy-three.

(ii) If a person who last became a member of a public retirement system of the state after June thirtieth, nineteen hundred seventy-three but prior to July first, nineteen hundred seventy-six retires such person shall, upon re-entry to membership in a public retirement system of the state, but subject to all retirement rights, privileges and obligations which would pertain to such person had he reentered membership in such retirement system on June thirtieth, nineteen hundred seventy-six.

(iii) The provisions of this article shall not be construed to repeal, amend or modify any provisions of law or rules or regulations in effect on June thirtieth, nineteen hundred seventy-six issued thereunder which govern the reemployment of retired persons by public employers.

(iv) Notwithstanding any other provision of law, any member of a public retirement system who retired after having last entered such system prior to July first, nineteen hundred seventy-three, and thereafter re-entered service and joined or rejoined a public retirement system prior to April first, nineteen hundred seventy-seven, shall be entitled to all the rights, benefits and privileges and subject to all the obligations set forth in any law or laws relating to public retirement systems to which he would have been subject or entitled had he re-entered membership in such retirement system on June thirtieth, nineteen hundred seventy-three.

(v) Notwithstanding any other provision of law, any member of a public retirement system who retired after having last entered such system

after June thirtieth, nineteen hundred seventy-three and prior to July first, nineteen hundred seventy-six and thereafter re-entered service and joined or rejoined a public retirement system prior to April first, nineteen hundred seventy-seven, shall be entitled to all the rights, benefits and privileges and subject to all the obligations set forth in any law or laws relating to public retirement systems to which he would have been subject or entitled had he re-entered membership in such retirement system on June thirtieth, nineteen hundred seventy-six.

§ 520. Duration. Notwithstanding any other provision of this chapter or of any other law, effective January first, nineteen hundred seventy-seven, all benefits provided by a public retirement system of the state shall continue with respect to members to which this article is applicable only until June thirtieth, nineteen hundred eighty-three.

ARTICLE 14-A

ELIMINATION OF MANDATORY RETIREMENT

Section 530. Elimination of mandatory retirement.

§ 530. Elimination of mandatory retirement. a. Notwithstanding any provision of law, code, rule or regulation to the contrary and except as provided in subdivisions b and c hereof, no member of a public retirement system or pension fund maintained by the state or a municipality thereof, nor any employee who was eligible to join such a public retirement system but in lieu thereof elected an optional retirement program to which his or her employer is thereby obligated to contribute, shall be required to retire or separate from service on the basis of age.

b. This article shall not apply to any member of a retirement plan which permits immediate retirement upon a specified period of service of twenty-five years or less without regard to age, nor shall this article apply to any employee serving an employer in a position that, if offered to any individual not having been previously employed by any employer

(as "employer" is defined in this chapter) or by an employer in any of the public retirement systems funded and maintained by a city, would qualify any such individual to become a member of a retirement plan which permits immediate retirement upon a specified period of service of twenty-five years or less without regard to age.

c. Nothing contained in this article shall be construed to prohibit mandatory retirement or separation from service on the basis of age where age is a bona fide occupational qualification reasonably necessary to the performance of the employee's public duties.

d. Nothing contained in this article shall be construed to extend the time limitations on payments authorized by section two hundred seven-a of the general municipal law, as such limitations are set forth in subdivisions two and four of such section; nor shall anything in this article be deemed to extend the time limitations on payments authorized by section two hundred seven-c of the general municipal law, as such limitations are set forth in subdivision five of such section.

e. Notwithstanding any other provisions of law to the contrary, any person who was employed by the state of New York or a participating employer and who was previously denied membership in the New York state and local employees' retirement system based solely on the mandatory retirement provisions in effect at the time of commencing employment and who has met all the salary and service credit requirements for a service retirement benefit provided by the applicable provisions of this chapter shall be entitled to file for a service retirement benefit, notwithstanding the mandatory retirement provisions in effect prior to the effective date of this section, and shall be entitled to receive such retirement benefit commencing the day after his or her public employment ceased.

ARTICLE 14-B

SPECIAL RETIREMENT PLANS FOR SHERIFFS, UNDERSHERIFFS AND DEPUTY SHERIFFS ENGAGED IN LAW ENFORCEMENT ACTIVITIES

Section 550. Definitions.

- 551. Optional retirement of certain members.
- 552. Optional twenty year retirement plan for certain members whose employer elects to provide same.
- 553. Additional pension benefit for members of optional twenty year retirement plan.
- 554. Consistent provisions.
- 555. Ordinary disability retirement.
- 556. Accidental disability retirement.
- 557. Members; certain disabilities.
- 558. Retirement for disability incurred in performance of duty.
- 559. Applications.
- 560. Past service payments.

§ 550. Definitions. For purposes of this article the terms:

a. 1. "Member" shall mean a person who is employed as a sheriff, undersheriff or deputy sheriff who is engaged directly in criminal law enforcement activities that aggregate fifty per centum of his or her service and is a police officer under the criminal procedure law, as certified by the county sheriff, by any county which elects by resolution duly adopted, to provide the benefits as authorized by this article.

2. Notwithstanding the provisions of paragraph one of this subdivision, member shall also include a deputy sheriff who is a police officer pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police council or as certified by the police department of the city of New York upon satisfactory completion of the basic training program and graduation from the New York city police academy, provided that the employer has filed an election to that effect pursuant to paragraph two of subdivision j of section five hundred fifty-two of this article.

b. "Retirement system" shall mean the New York state and local employees' retirement system.

§ 551. Optional retirement of certain members. a. Any member may elect to contribute to the retirement system on the basis of retirement upon his or her completion of twenty-five years of total creditable service on an allowance of one-fiftieth of his or her final average salary for each year of total service as a member but not exceeding in the aggregate one-half of his or her final average salary. Any member of the retirement system may elect to become a member pursuant to the provisions of this section within one year after he or she becomes a member, if his or her employer has elected to make the benefits provided herein available to members, or within one year after his or her employer elects to make the benefits provided herein available to its members.

b. Elections made pursuant to this section shall be in writing and shall be duly acknowledged and filed with the comptroller. Any member who files such an election pursuant to this section may withdraw it after it has been filed for at least one year. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller.

c. The member's employer by appropriate action shall, in its initial action under this section, elect to assume all of the additional cost on account of service as a member rendered prior to the effective date of such election and in any subsequent action, shall elect to assume all of the additional cost on account of service as a member of any such other prior department or force rendered prior to the effective date of such subsequent election. The employer shall pay the additional cost so assumed by any such election by means of annual contributions which shall be determined by the actuary of the retirement system and paid by the employer in the same manner as the contributions required under this chapter.

d. For actuarial purposes relative to rates or amounts of contributions to the funds of the retirement system, service of a member making an election pursuant to this section shall, as to his or her service and status subsequent thereto, be deemed continuous and constant. If the continuity of such service be interrupted or such

status be changed, however, appropriate changes as may be necessary for actuarial purposes shall be made in such rates and amounts.

e. In the event a member shall continue in service after twenty-five years of total creditable service, there shall be added to his or her pension upon retirement a sum equal to one-sixtieth of his or her final average salary for each completed additional year of service after twenty-five years; provided, however, that upon completion of twenty-five years of total creditable service, a participating employer may elect to provide any service credit earned with a public employer prior to services performed as a sheriff, undersheriff or deputy sheriff towards the one-sixtieth allowance and provided, further that the total allowance payable pursuant to this section shall not exceed three-quarters of such member's final average salary.

f. The increased pension provided for in subdivision e hereof shall be conditioned upon the participating employer electing to provide this added benefit and assuming the additional cost thereof on account of all of the members. Such increased pensions to the members shall be paid from additional contributions made by the appropriate participating employer on account of such members. The actuary of the retirement system shall compute the additional contributions for each employer who elects to provide the special benefits so provided. Such additional contributions shall be computed on the basis of contributions during the prospective service of such members which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him to the chief fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the participating employer for members. Such amount shall be paid on the warrant of the chief fiscal officer of the participating employer to the pension accumulation fund of the retirement system.

g. Any member may, within one year after he or she becomes a member or within one year after his or her employer assumes the additional cost therefor, whichever shall last occur, elect to receive the additional benefits provided for by subdivision e hereof. Any member who elects to

receive such benefits shall be separated from service on the first day of the calendar month next succeeding his or her attainment of age sixty-two and the completion of twenty-five years of service, provided, however, that in the case of any member who attained the age of sixty-two before his or her employer assumed the additional cost therefor, or who attains the age of sixty-two within one month after his or her employer assumes the additional cost therefor, to be eligible for additional pension credit under subdivision e of this section, his or her service shall be terminated and he or she shall be retired within three months after his or her employer assumes the additional cost therefor.

h. 1. As used in this section "creditable service" shall include, any and all services performed as a sheriff, undersheriff or deputy sheriff, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his or her service as a deputy sheriff. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

2. Notwithstanding the provisions of paragraph one of this subdivision, a participating employer may elect on a form filed with the comptroller for that purpose to provide that creditable service shall also include any and all service performed by a deputy sheriff who is a police officer pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police council or as certified by the police department of the city of New York upon satisfactory completion of the basic training program and graduation

from the New York city police academy.

i. In computing the twenty-five years of completed service of a member, full credit shall be given for military service as defined in subdivisions twenty-nine-a and thirty of section three hundred two of this chapter.

j. The provisions of this section shall be controlling notwithstanding any provision of this chapter to the contrary.

k. The benefits hereinabove provided shall be payable to a member, unless at the date of retirement, such member would otherwise be entitled to a greater benefit under other provisions of this chapter had he or she withdrawn from this section, in which event such greater benefits shall be payable.

§ 552. Optional twenty year retirement plan for certain members whose employer elects to provide same. a. Any member of the retirement system may elect to become a member pursuant to the provisions of this section within one year after he or she becomes a member, if his or her employer has elected to make the benefits provided herein available to members, or within one year after his or her employer elects to make the benefits provided herein available to its members.

b. Elections made pursuant to this section shall be in writing and shall be duly acknowledged and filed with the comptroller. Any member who files such an election pursuant to this section may withdraw it after it has been filed for at least a year. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller.

c. A member participating on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty years of total creditable service or upon the attainment of age sixty-two, by filing an application therefor in a manner similar to that provided in this chapter.

1. Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension sufficient to provide him or her with a retirement allowance equal to one-fortieth of his or her final average salary for each year of total creditable service for which he or she is otherwise entitled but not exceeding in the aggregate one-half of his or her final average salary.

2. Upon attainment of age sixty-two and upon retirement without completion of twenty years of such service, each such member shall receive a pension sufficient to provide him or her with a retirement allowance equal to one-fortieth of his or her final average salary for each year of creditable service. Every such member shall also be entitled to an additional pension equal to the pension for any other creditable service rendered as otherwise provided for in this chapter. This latter pension shall not increase the total allowance to more than one-half of his or her final average salary.

d. The increased pensions to such members, as provided by this section, shall be paid from additional contributions made by the participating employer on account of such members. The actuary of the retirement system shall compute the additional contribution required for each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions. Upon approval of the comptroller, such additional contributions shall be certified by him or her to the chief fiscal officer of the participating employer. The amount thereof shall be included in the annual appropriation of the participating employer. Such amount shall be paid on the warrant of the chief fiscal officer of the participating employer to the pension accumulation fund of the retirement system.

e. In computing the twenty years of completed service of a member, full credit shall be given for military service as defined in subdivisions twenty-nine-a and thirty of section three hundred two of this chapter.

f. Every member participating on the basis of this section shall be separated from the service on the last day of the calendar month next succeeding the calendar month in which he or she attains age sixty-two, provided, however, that such a member who attained the age of sixty-two before his or her employer elected to make the benefits provided herein available to him or her, or who attains the age of sixty-two within one month after his or her employer makes such benefits available, to be eligible for a pension computed in accordance with the provisions of this section, shall be separated from the service within three months after his or her employer makes such benefits available.

g. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

h. The benefits of this section shall be available only to those members whose employer elects to provide such benefits by adopting a resolution to such effect and filing a certified copy thereof with the comptroller.

i. The benefits hereinabove provided shall be payable to a member, unless at the date of retirement, such member would otherwise be entitled to a greater benefit under other provisions of this chapter had he or she withdrawn from this section, in which event such greater benefits shall be payable.

j. 1. As used in this section "creditable service" shall include, any and all services performed as a sheriff, undersheriff or deputy sheriff, provided, however, that criminal law enforcement service shall only be creditable when it aggregates fifty per centum or more of his or her service as a deputy sheriff.

2. Notwithstanding the provisions of paragraph one of this subdivision, a participating employer may elect on a form filed with the comptroller for that purpose to provide that creditable service shall also include any and all service performed by a deputy sheriff who is a police officer pursuant to subdivision thirty-four of section 1.20 of

the criminal procedure law as certified by the municipal police council or as certified by the police department of the city of New York upon satisfactory completion of the basic training program and graduation from the New York city police academy.

3. Credit for service as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, or as a criminal investigator in the office of a district attorney, provided that service as such investigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

k. As used in this section, "creditable service" shall also include any and all services performed as an employee of the Columbia county sheriff's department, provided that such employment was performed on or before December thirty-first, nineteen hundred ninety-five and provided that on that date the employee was performing criminal law enforcement duties in the Columbia county sheriff's department.

§ 553. Additional pension benefit for members of optional twenty year retirement plan. a. A participating employer which has elected, or which elects to provide the benefits of the optional twenty year retirement plan for its employees as specified in section five hundred fifty-two of this article may elect to make contributions for the purpose of providing an additional pension pursuant to this section for members in its employ who are entitled to a pension pursuant to section five hundred fifty-two of this article. Every member employed by an employer which participates in the retirement system and which has elected the provisions of section five hundred fifty-two of this article and this section may elect to be covered by the provisions of this

section by filing with the comptroller a duly executed and acknowledged form prepared by the comptroller for that purpose.

b. Upon retirement, each such member shall receive, for each year of service in excess of twenty, an additional pension which shall be equal to one-sixtieth of his or her final average salary; provided, however, a participating employer may elect to provide any service credit earned with a public employer prior to services performed as a sheriff, undersheriff or deputy sheriff towards the one-sixtieth allowance and provided further that the total allowance payable pursuant to this section shall not exceed three-quarters of such member's final average salary. The additional benefit provided by this subdivision shall be available to a member after his or her employer elects to make this benefit available to all its members otherwise eligible to receive this benefit.

§ 554. Consistent provisions. Any other provisions of this chapter relating to mandatory contribution to the retirement system based upon a member's date of membership in such system shall not be deemed to be affected by the provisions of this article, and any member who on the date this article takes effect is not required to contribute shall not be required to make any contributions as a result of the enactment of this article. For those members required to contribute to the retirement system, such contribution shall be treated in the same manner as specified for such members in article fourteen or article fifteen of this chapter.

§ 555. Ordinary disability retirement. a. Application for an ordinary disability retirement allowance for a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. Some person acting on behalf of and authorized by such member.

aa. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and
2. Actually be in service upon which his or her membership is based, or, have been discontinued from service, either voluntarily or involuntarily, for not more than ninety days, providing the member was disabled prior to such discontinuance.

An application for disability retirement shall not be disapproved on the basis of a deputy sheriff having failed to engage directly in criminal law enforcement activities that aggregate fifty per centum of a deputy sheriff's service during a period preceding the filing of the application provided the failure to do so was the result of the disability alleged in the application and further provided the deputy sheriff was certified as so engaged in criminal law enforcement activities by the county sheriff for the calendar year preceding the onset of the disability.

After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for ordinary disability, he or she shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

b. Upon retirement for ordinary disability one of the following retirement allowances shall be payable:

1. If a member has attained age sixty when such retirement becomes effective, his or her retirement allowance shall be equal to that which he or she would receive in the case of superannuation retirement.
2. If the member has not attained age sixty when such retirement becomes effective, his or her retirement allowance shall consist of:
 - (a) An annuity which shall be the actuarial equivalent of his or her

accumulated contributions at the time of his or her retirement, plus

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may then be entitled, if any, plus

(c) A pension computed in accordance with whichever of the following provides the greater benefit:

(1) A pension which, together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal ninety per centum of one-seventieth of his or her final average salary multiplied by the number of years of his or her total service credit, which formula shall be used only if the retirement allowance so computed exceeds one-quarter of his or her final average salary. If the retirement allowance so computed shall amount to one-quarter or less of the member's final average salary, his or her pension shall be computed upon the basis of the total service which he or she would have rendered if he or she continued in service until he or she attained age sixty so as the resulting retirement allowance computed by resort to this formula shall not exceed one-quarter of the member's final average salary.

(2) A pension which together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal one-sixtieth of his or her final average salary multiplied by the number of years of his or her total service credit, which formula shall be used only if the retirement allowance so computed exceeds one-third of his or her final average salary. If the retirement allowance so computed shall amount to one-third or less of the member's final average salary, his or her pension shall be computed upon the basis of the total service which he or she would have rendered if he or she continued in service until he or she attained age sixty so far as the resulting retirement allowance computed by resort to this formula shall not exceed one-third of the member's final average salary.

For the purpose only of determining the amount of a pension pursuant to any of the above formulae, the annuity shall be computed as it would be:

(aa) If not reduced by the actuarial equivalent of any outstanding loan, and

(bb) If not increased by the actuarial equivalent of any additional contributions, and

(cc) If not reduced by reason of the member's election to decrease his

or her annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his or her contributions for old-age and survivors insurance coverage.

c. If the member, at the time of the filing of an application under the provisions of subdivision a of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section three hundred seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for ordinary disability retirement.

d. An application for an ordinary disability retirement allowance may be filed, as otherwise provided herein, simultaneously with or after the filing of an application for an accidental disability retirement allowance, providing a member meets the requirements of this section. If the comptroller shall deny the application for an accidental disability retirement allowance, he or she shall then determine the application for an ordinary disability retirement allowance. If the comptroller shall grant the application for an accidental disability retirement allowance, the application for an ordinary disability retirement allowance will be deemed to have been withdrawn.

§ 556. Accidental disability retirement. a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and

provided that the member meets the requirements of paragraph one of this subdivision, application may be made either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is first discontinued from service and provided that the member meets the requirements of paragraph one of this subdivision.

An application for disability retirement shall not be disapproved on the basis of a deputy sheriff having failed to engage directly in criminal law enforcement activities that aggregate fifty per centum of a deputy sheriff's service during a period preceding the filing of the application provided the failure to do so was the result of the disability alleged in the application and further provided the deputy sheriff was certified as so engaged in criminal law enforcement activities by the county sheriff at the time the accident is alleged to have occurred.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. Some person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred, and
- (b) The particulars thereof, and
- (c) The nature and extent of the member's injuries, and
- (d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident, or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon accidental disability retirement shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated contributions, plus

2. A pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may be entitled, if any, plus

3. A pension of two-thirds of his or her final average salary. The payment of such pension shall be subject to the provisions of section three hundred sixty-four of this chapter.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the applicant for accidental disability retirement.

g. The provisions of section three hundred sixty-four of this chapter shall apply.

h. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

(e) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision h of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this chapter, shall be entitled to an accidental death benefit as provided by section five hundred nine of this chapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this chapter requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits

or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

j. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision h of this section; and (2) dies in active service from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 557. Members; certain disabilities. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a member shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence.

§ 558. Retirement for disability incurred in performance of duty. a. After January first, nineteen hundred eighty-five, a member who becomes physically or mentally incapacitated for the performance of duty shall be covered by the provisions of this section in lieu of the provisions

of section five hundred fifty-six of this article; except, however, any such member who last entered or re-entered service prior to that date shall be entitled to apply for disability retirement pursuant to such section and to receive the benefit so payable in lieu of the benefit payable pursuant to this section.

b. Eligibility. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made, either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is discontinued from service and provided that the member meets the requirements of subdivision a of this section and this subdivision.

An application for disability retirement shall not be disapproved on the basis of a deputy sheriff having failed to engage directly in criminal law enforcement activities that aggregate fifty per centum of a deputy sheriff's service during a period preceding the filing of the application provided the failure to do so was the result of the disability alleged in the application and further provided the deputy sheriff was certified as so engaged in criminal law enforcement activities by the county sheriff at the time the physical or mental incapacitation for the performance of duty is alleged to have occurred.

c. Application. Application for retirement for disability incurred in performance of duty may be made by:

1. Such member, or

2. The head of the department in which such member is employed.

d. Verification of disability. After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, he or she shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. 1. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the occurrence which is the basis for the disability incurred in the performance of duty, setting forth:

- (a) The time, date and place of such occurrence, and
- (b) The particulars thereof, and
- (c) The nature and extent of the member's injuries, and
- (d) The alleged disability.

2. The notice herein required need not be given:

(a) If notice of such occurrence shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for retirement for disability incurred in the performance of duty is filed within one year after the date of the occurrence which forms the basis for the application, or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

3. Notwithstanding any other provision of law to the contrary, the provisions of this subdivision shall apply to all occurrences before or after the effective date of this section.

f. The retirement allowance payable upon retirement for disability incurred in the performance of duty shall consist of a pension of one-half of his or her final average salary plus an annuity which shall be the actuarial equivalent of the member's accumulated contributions, if any.

g. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the retirement for disability incurred in performance of duty.

h. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section five hundred fifty-six of this article. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

i. A final determination of the comptroller that the member is not entitled to retirement benefits pursuant to this section shall not in any respect be, or constitute, a determination with regard to benefits payable pursuant to section two hundred seven-c of the general municipal law.

j. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

(e) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

k. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who:

(1) has met the criteria of subdivision j of this section and retired on a service or disability retirement, or would have met the criteria if

not already retired on an accidental disability; and

(2) has not been retired for more than thirty-five years; and

(3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this chapter, shall be entitled to an accidental death benefit as provided by section five hundred nine of this chapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this chapter requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the respective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under this service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

l. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who:

(1) has met the criteria of subdivision j of this section; and

(2) dies in active service from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical

board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part.

Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 559. Application. For purposes of accidental disability retirement only, a sheriff, undersheriff or deputy sheriff engaged directly in criminal law enforcement activities that aggregate fifty per centum of his or her service and are police officers under the criminal procedure law who last joined a public retirement system of the state or a municipality thereof, on or after July first, nineteen hundred seventy-three, but prior to January first, nineteen hundred eighty-five, shall be subject to the provisions of article eleven of this chapter that apply to members of the state and local police and fire retirement system.

§ 560. Past service payments. Any past service payments required by a county that adopts the provisions of this article may be paid over a period of five or ten years determined by the county.

ARTICLE 15

COORDINATED RETIREMENT PLAN

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§ 600. Application. a. Notwithstanding any other provision of law, the

provisions of this article shall apply to all members who join or rejoin a public retirement system of the state on or after July first, nineteen hundred seventy-six and to all employees who would have been eligible to join or rejoin such a retirement system on or after such date but in lieu thereof elected an optional retirement program to which their employers are thereby required to contribute, except the following:

1. Members of the New York state and local police and fire retirement system;

2. (a) Members in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision of New York state, other than certain persons as defined in this section or the New York city department of correction.

(b) For purposes of this paragraph, certain persons means either:

(i) a person who is appointed to the title of superintendent, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of corrections and community supervision and who elects the retirement plan established pursuant to this article within ninety days of his or her appointment. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent; or

(ii) a person who serves in the title of superintendent as of April first, two thousand six, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of corrections and community supervision and who elects the retirement plan established pursuant to this article on or before September thirtieth, two thousand six. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent.

(c) Any person in the title of superintendent who is eligible to make an election as described in this section but who does not make such election, shall remain a member of the retirement plan that persons appointed to the title of superintendent join who do not meet the above criteria.

3. Members of the New York city police pension fund or the New York city fire department pension fund;

4. Members qualified for participation in the uniformed transit police force plan or housing police force plan in the New York city employees' retirement system;

5. Investigator members of the New York city employees' retirement system; and

6. Members of the uniformed force of the New York city department of sanitation who join or rejoin a public retirement system of the state on or after April first, two thousand twelve.

In the event that there is a conflict between the provisions of this article and the provisions of any other law or code, the provisions of this article shall govern.

b. Notwithstanding any other provision of this article to the contrary, persons who on or after July first, nineteen hundred seventy-six:

1. Enter the employment of a public employer which participates for such employees in the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system shall be required to become members or shall be eligible or ineligible for membership in such retirement system or pension fund in the manner provided for by the relevant provisions of the New York city administrative code and other relevant laws and rules and regulations except that, notwithstanding any other provision of law, members who were employed by the New York city board of education and assigned during the first fifteen days of the school term to a position which is expected to be vacant for the term and who were employed in one of the three school years immediately prior to July first, nineteen hundred seventy-six in a position which did not entitle them to apply for membership in a public retirement system and who first joined the

New York city teachers' retirement system subsequent to June thirtieth, nineteen hundred seventy-six shall have all the rights, benefits and privileges applicable to employees who were members of such system on June thirtieth, nineteen hundred seventy-six provided they make written application, duly executed and filed with the New York city teachers' retirement board prior to July first, nineteen hundred eighty-nine;

1-a. Enter the employment of a public employer which participates for such employees in the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system shall be required to become members or shall be eligible or ineligible for membership in such retirement system or pension fund in the manner provided for by the relevant provisions of the New York city administrative code and other relevant laws and rules and regulations except that, notwithstanding any other provision of law, members who were employed by the New York city board of education as regular substitute teachers when assigned as such and members who were employed by the New York city board of education and assigned during the school year to a position which was expected to be vacant for the school year, such members having been employed for a period of not less than twenty school days during such school year in a position which did not entitle them to apply for membership in a public retirement system and who first joined the New York city teachers' retirement system or the New York state teachers' retirement system subsequent to June thirtieth, nineteen hundred seventy-six shall have all the rights, benefits and privileges to which they would have been entitled had their current membership begun on the date their original service commenced, provided they make written application, duly executed and filed with the retirement system in which they are members on or before June thirtieth, two thousand three. Any member of a teachers' retirement system who is entitled by reason of this paragraph to have all the rights, benefits and privileges of a member of such system as of a date prior to July first, nineteen hundred seventy-six shall not be entitled to a refund of any contributions made to such system prior to the effective date of this paragraph pursuant to this article or article fourteen of this chapter;

2. Enter the employment of a public employer which participates for such employees in the New York state teachers' retirement system shall be required to become members or shall be eligible or ineligible for membership in such retirement system in the manner provided for by the relevant provisions of the New York state education law;

3. Enter the employment of a public employer which participates for such employees in the New York state employees' retirement system in positions in which they shall work full time shall be required to become members;

(a) Provided, however, persons in the employ of such employers after such date in positions in which they work less than full time shall be permitted to become members of the New York state employees' retirement system by filing an application therefor in the manner provided for by section forty of this chapter;

(b) Provided further that an employee of a county extension service association or Cornell university appointed for the first time on or after August first, nineteen hundred seventy-seven who holds a federal cooperative appointment with the United States department of agriculture as designated by the director of the New York state cooperative extension service and who is eligible for participation in the federal retirement system shall be excluded from membership in the state employees' retirement system; and

(c) Provided further that any employee of a county extension service association and any employee of Cornell university appointed for the first time on or after July first, nineteen hundred seventy-six but on or before July thirty-first, nineteen hundred seventy-seven, who holds a state cooperative appointment as designated by the director of the New York state cooperative extension service may elect to receive a federal cooperative appointment in the manner provided for by the relevant federal laws, rules and regulations and to participate in the federal retirement system and discontinue his participation in the state retirement system by filing a written notice of termination on or before December thirty-first, nineteen hundred eighty-three with the comptroller. Any employee who is a member of the state employees' retirement system at the time he or she elects coverage in the federal retirement program shall be deemed to be a person who discontinues

service on the effective date of such election, for the purpose of determining his or her eligibility for rights and benefits in such state system; provided, however, that if he or she does not withdraw accumulated contributions, (i) continued service with the county extension service association or Cornell university while under the federal retirement program shall be deemed to be member service in the New York state employees' retirement system for the purpose of determining eligibility for any vested retirement allowance, retirement allowance or ordinary death benefit under such system dependent upon a specified period of total service or upon attainment of a specified age while in service or upon death while in service; and (ii) the amount of any such benefit to which the person or his or her estate or person designated by him or her may become entitled under either such system shall be computed only on the basis of service otherwise creditable to him or her therein and his or her compensation during such service. Electing employees and their beneficiaries shall not be entitled to any right or benefit under the New York state employees' retirement system other than a vested retirement allowance, retirement allowance or ordinary death benefit to the extent expressly provided for in this chapter.

c. The provisions of this article shall not be construed to extend coverage to an employee who would not have been, if employed in the same capacity on June thirtieth, nineteen hundred seventy-six, eligible for membership in the retirement system involved.

§ 601. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

a. "Active service" shall mean service while being paid on the payroll of a participating employer provided, however, a leave of absence with pay may be deemed active service pursuant to rules and regulations adopted by a public retirement system of the state.

b. "Credited service" shall mean all service which has been credited

to a member pursuant to section six hundred nine of this article.

c. "Creditable service" is service which qualifies to be counted as credited service pursuant to section six hundred nine of this article.

d. "Eligible beneficiary" for the purposes of section six hundred seven of this article shall mean the following persons or classes of persons in the order set forth:

1. A surviving spouse who has not renounced survivorship rights in a separation agreement, until remarriage;

2. Surviving children until age twenty-five;

3. Dependent parents, determined under regulations promulgated by the head of the retirement system;

4. Any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age. In the event that a class of eligible beneficiaries consists of more than one person, benefits shall be divided equally among the persons in such class; and

5. With respect to members of the New York city employees' retirement system or the board of education employees' retirement system of the city of New York only, a person or persons whom the member shall have nominated in the form of a written designation, duly acknowledged and filed with the head of the retirement system for the purpose of section six hundred six of this article.

6. Notwithstanding any other provisions of law, "eligible beneficiary" of a New York city uniformed sanitation member shall mean the following persons or classes of persons in the order set forth: (i) a surviving spouse who has not renounced survivorship in a separation agreement, (ii) surviving children until age twenty-five, (iii) dependent parents, determined under regulations promulgated by the comptroller and (iv) any

other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age.

e. "Member" shall mean a member subject to the provisions of this article.

f. "Head of the retirement system" shall mean the comptroller, with respect to the state employees' retirement system and the retirement board of the other public retirement systems of the state.

g. "Mandatory retirement age" shall mean age seventy.

h. "Normal retirement age" shall mean age sixty-two.

i. "Participating employer" shall mean a public employer who is participating in a public retirement system of the state.

j. "Public employer" shall mean an employer who is eligible to participate in a public retirement system of the state.

k. "Public retirement system of the state" shall mean the New York state employees' retirement system, New York state teachers' retirement system, New York city employees' retirement system (except with respect to members qualified for participation in the uniformed transit police force plan or housing police force plan), New York city teachers' retirement system and the New York city board of education retirement system.

l. (a) "Wages" shall mean regular compensation earned by and paid to a member by a public employer, except that for members who first join the New York state and local employees' retirement system or the New York state teachers' retirement system on or after January first, two thousand ten, overtime compensation paid in any year in excess of the overtime ceiling, as defined by this subdivision, shall not be included in the definition of wages.

(b) "Overtime compensation" shall mean, for purposes of this section, compensation paid under any law or policy under which employees are paid at a rate greater than their standard rate for additional hours worked beyond those required, including compensation paid under section one hundred thirty-four of the civil service law and section ninety of the general municipal law.

* (c) The "overtime ceiling" shall mean fifteen thousand dollars per annum on January first, two thousand ten, and shall be increased by three per cent each year thereafter, provided, however, that:

(i) for members who first become members of a public retirement system of the state on or after April first, two thousand twelve, "overtime ceiling" shall mean fifteen thousand dollars per annum on April first, two thousand twelve, and shall be increased each year thereafter by a percentage to be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal the annual inflation as determined from the increase in the consumer price index in the one year period ending on the December thirty-first preceding the overtime ceiling adjustment effective on the ensuing April first.

(ii) Commencing January first, two thousand eighteen, and each year thereafter, the overtime ceiling percentage shall be increased by an amount equal to the annual inflation as determined from the increase in the consumer price index in the one year period ending on the September thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

* NB Effective until January 1, 2027

* (c) The "overtime ceiling" shall mean fifteen thousand dollars per annum on January first, two thousand ten, and shall be increased by three percent each year thereafter, provided, however, that:

(i) For members who first become members of a public retirement system of the state on or after April first, two thousand twelve, "overtime ceiling" shall mean fifteen thousand dollars per annum on April first, two thousand twelve, and shall be increased each year thereafter by a percentage to be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items,

1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal the annual inflation as determined from the increase in the consumer price index in the one year period ending on the December thirty-first preceding the overtime ceiling adjustment effective on the ensuing April first.

(ii) Commencing January first, two thousand eighteen, and each year thereafter, the overtime ceiling percentage shall be increased by an amount equal to the annual inflation as determined from the increase in the consumer price index in the one year period ending on the September thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

(iii) Commencing January first, two thousand twenty-seven, for members of the New York state and local employees' retirement system or the New York state teachers' retirement system who first become members of such system on or after January first, two thousand ten and for the New York city revised plan members, "overtime ceiling" shall mean thirty thousand dollars per annum and shall be increased by three percent each year thereafter.

* NB Effective January 1, 2027

(d) For members who first join a public retirement system of the state on or after April first, two thousand twelve, the following items shall not be included in the definition of wages: 1. wages in excess of the annual salary paid to the governor pursuant to section three of article four of the state constitution, 2. lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked, 3. any form of termination pay, 4. any additional compensation paid in anticipation of retirement, and 5. in the case of employees who receive wages from three or more employers in a twelve month period, the wages paid by the third and each additional employer.

m. "New York city revised plan member" shall mean a member of the New York city employees' retirement system, the New York city teachers' retirement system or the board of education retirement system of the city of New York who becomes subject to the provisions of this article on or after April first, two thousand twelve.

§ 602. Eligibility for service retirement benefits; minimum service requirements. a. Except as provided in subdivision b-1 of this section, a member who first joins a public retirement system of this state on or after July first, nineteen hundred seventy-six shall not be eligible for service retirement benefits hereunder until such member has rendered a minimum of five years of credited service.

b. Except as provided in subdivision b-1 of this section, a member who previously was a member of a public retirement system of this state shall not be eligible for service retirement benefits hereunder until such member has rendered a minimum of five years of service which is credited pursuant to section six hundred nine of this article.

b-1. (1) Notwithstanding the provisions of subdivision a or b of this section or any other provision of law to the contrary, (i) a member of the New York city teachers' retirement system who holds a position represented by the recognized teacher organization for collective bargaining purposes, and who became subject to the provisions of this article after the effective date of this subdivision, or (ii) a member of the New York city board of education retirement system who holds a position represented by the recognized teacher organization for collective bargaining purposes, and who became subject to the provisions of this article after the effective date of this subdivision, shall not be eligible for service retirement benefits hereunder until such member has rendered a minimum of five years of credited service.

(2) Notwithstanding the provisions of subdivision a or b of this section or any other provision of law to the contrary, a member who first joins a public retirement system of the state on or after April first, two thousand twelve shall not be eligible for service retirement benefits hereunder until such member has rendered a minimum of five years of credited service.

c. Notwithstanding any other provision of this section, if a member attains mandatory retirement age, the minimum service requirements specified in this section shall be five years.

d. Upon the first day of the month after the attainment of mandatory retirement age, a member shall be separated from service whether or not eligible for service retirement hereunder; provided, however, that this requirement shall not preclude a member from being continued in service beyond such mandatory retirement age pursuant to other applicable provisions of law and provided further, however, that this requirement shall not preclude a school district from permitting a teacher to continue in service to the end of the school year should a teacher attain age seventy within the period September first through June thirtieth of such school year.

§ 603. Eligibility for service retirement benefits; age and service requirements. * a. The service retirement benefit specified in section six hundred four of this article shall be payable to members who have met the minimum service requirements upon retirement and attainment of age sixty-two, other than members who are eligible for early service retirement pursuant to subdivision c of section six hundred four-b of this article, subdivision c of section six hundred four-c of this article, subdivision d of section six hundred four-d of this article, subdivision c of section six hundred four-e of this article, subdivision c of section six hundred four-f of this article, subdivision c of section six hundred four-g of this article, subdivision c of section six hundred four-h of this article subdivision c of section six hundred four-i of this article, or subdivision c of section six hundred four-j of this article, provided, however, a member of a teachers' retirement system or the New York state and local employees' retirement system who first joins such system before January first, two thousand ten or a member who is a uniformed court officer or peace officer employed by the unified court system who first becomes a member of the New York state and local employees' retirement system before April first, two thousand twelve may retire without reduction of their retirement benefit upon attainment of at least fifty-five years of age and completion of thirty or more years of service, provided, however, that a uniformed court officer or peace officer employed by the unified court system who first becomes a member of the New York state and local employees' retirement system on or after January first, two thousand ten and retires without

reduction of their retirement benefit upon attainment of at least fifty-five years of age and completion of thirty or more years of service pursuant to this section shall be required to make the member contributions required by subdivision f of section six hundred thirteen of this article for all years of credited and creditable service, provided further that the preceding provisions of this subdivision shall not apply to a New York city revised plan member.

* NB Effective until ch. 682/2003 expires and only so long as certain conditions are met (see chapter 55 of 2024 Part EE, § 5 (a))

* a. The service retirement benefit specified in section six hundred four of this article shall be payable to members who have met the minimum service requirements upon retirement and attainment of age sixty-two, other than members who are eligible for early service retirement pursuant to subdivision c of section six hundred four-b of this article, subdivision c of section six hundred four-c of this article, subdivision d of section six hundred four-d of this article, subdivision c of section six hundred four-e of this article, subdivision c of section six hundred four-f of this article, subdivision c of section six hundred four-g of this article, subdivision c of section six hundred four-h of this article or subdivision c of section six hundred four-i of this article provided, however, a member who is a peace officer employed by the unified court system or a member of a teachers' retirement system or the New York state and local employees' retirement system may retire without reduction of his or her retirement benefit upon attainment of at least fifty-five years of age and completion of thirty or more years of service.

* NB Effective when ch. 682/2003 expires

a-1. For members who first become a member of a public retirement system of the state on or after April first, two thousand twelve, the service retirement benefit specified in section six hundred four of this article shall be payable to members who have met the minimum service requirements upon retirement and have attained age sixty-three, provided, however, that members of the New York state teachers' retirement system or the New York city teachers' retirement system who first became members of such system on or after April first, two thousand twelve may retire without reduction of their retirement benefit

upon attainment of at least fifty-eight years of age and completion of thirty or more years of service.

* b. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are correction officers of the Westchester county correction department as defined in section eighty-nine-e of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-e and six hundred one of this chapter.

* NB There are 2 sb b's

* b. Notwithstanding the provisions of subdivision a of this section, a member of the New York city employees' retirement system, who is employed in the uniformed force of the New York city department of sanitation, and who is not eligible for early service retirement pursuant to subdivision c of section six hundred four-a of this article, shall be eligible to receive the service retirement benefit specified in section six hundred four of this article upon attainment of at least fifty-five years of age and the completion of thirty or more years of service.

* NB There are 2 sb b's

c. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed in Suffolk county as a correction officer as defined in section eighty-nine-f of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be

subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before September first, nineteen hundred eighty-nine or within one year after entering into employment with Suffolk county as a corrections officer, as defined in section eighty-nine-f of this chapter, whichever is later. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-f and six hundred one of this chapter.

d. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before January first, nineteen hundred ninety-two. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-g and six hundred one of this chapter.

e. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer as defined in section eighty-nine-h of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article

fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, two thousand four. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-h and six hundred one of this chapter.

f. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-i of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-i and six hundred one of this chapter.

* g. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-l of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-one, or within one year after entering into employment with Orleans county as a sheriff, undersheriff,

deputy sheriff or correction officer as defined in section eighty-nine-l of this chapter. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-l and six hundred one of this chapter.

* NB There are 2 sb g's

* g. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer as defined in section eighty-nine-k of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-one, or within one year after entering into employment with Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer as defined in section eighty-nine-k of this chapter. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-k and six hundred one of this chapter.

* NB There are 2 sb g's

* h. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-j of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December

thirty-first, nineteen hundred ninety-two, or within one year after entering into employment with Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine of this chapter. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-j and six hundred one of this chapter.

* NB There are 2 sb h's

* h. 1. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are engaged directly in criminal law enforcement activities and who are employed in the office of the district attorney of Westchester county as a chief criminal investigator, deputy chief criminal investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator or criminal investigator/arson if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of article fourteen of this chapter. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-one, or within one year after entering employment in the office of the district attorney of Westchester county in one of the titles aforementioned in this subdivision. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections six hundred one and eighty-nine-d of this chapter and such term shall, subject to the conditions in such sections six hundred one and eighty-nine-d, also include service as a chief criminal investigator or a deputy chief criminal investigator.

2. Notwithstanding the provisions of paragraph one of this subdivision, if the county of Westchester elects to provide the retirement benefit pursuant to this paragraph by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, the service retirement benefit specified in section six hundred four of

this article shall be payable to members with twenty years of creditable service, without regard to age, who are engaged directly in criminal law enforcement activities and who are employed in the office of the district attorney of Westchester county as a chief criminal investigator, deputy chief criminal investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator or criminal investigator/arson if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of article fourteen of this chapter. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, two thousand two, or within three years after entering employment in the office of the district attorney of Westchester county in one of the titles aforementioned in this paragraph.

* NB There are 2 sb h's

* i. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Broome county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-m of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-one or within one year after entering into employment with Broome county as a sheriff, undersheriff, deputy sheriff or correction officer. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-m and six hundred one of this chapter.

* NB There are 2 sb i's

* i. 1. A member of a teachers' retirement system or the New York state and local employees' retirement system who has met the minimum service requirements but who has less than thirty years of credited service or a member who first joins the New York state and local employees' retirement system or the New York state teachers' retirement system on or after January first, two thousand ten may retire prior to normal retirement age, but no earlier than attainment of age fifty-five, in which event, unless such person is a member of the New York city teachers' retirement system who is otherwise eligible for early service retirement pursuant to subdivision c of section six hundred four-i of this article, the amount of his or her retirement benefit otherwise computed without optional modification shall be reduced in accordance with the following schedule:

(i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; provided, however, that for members who first join the New York state and local employees' retirement system or the New York state teachers' retirement system on or after January first, two thousand ten, such amounts shall be equal to one-fifteenth per year; and

(ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month; provided, however, that for members who first join the New York state and local employees' retirement system or the New York state teachers' retirement system on or after January first, two thousand ten, such amounts shall be equal to one-twentieth per year, but in no event shall retirement be permitted prior to attainment of age fifty-five.

2. A member of the New York city employees' retirement system or the board of education retirement system of the city of New York who has met the minimum service requirement, but who is not (a) a participant in the twenty-five-year early retirement program, as defined in paragraph ten of subdivision a of section six hundred four-c of this article (as added by chapter ninety-six of the laws of nineteen hundred ninety-five), or (b) a participant in the age fifty-seven retirement program, as defined in paragraph three of subdivision b of section six hundred four-d of this article, or (c) a New York city transit authority member, as defined in paragraph one of subdivision a of section six hundred four-b

of this article, may retire prior to normal retirement age, but no earlier than attainment of age fifty-five, in which event, unless such person is a member of the board of education retirement system of such city who is otherwise eligible for early service retirement pursuant to subdivision c of section six hundred four-i of this article, the amount of his or her retirement benefit computed without optional modification shall be reduced in accordance with the following schedule:

(i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; and

(ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month, but in no event shall retirement be permitted prior to attainment of age fifty-five.

3. A member of a public retirement system of the state who has met the minimum service requirement, but who is not a New York city transit authority member, as defined in paragraph one of subdivision a of section six hundred four-b of this article, may retire prior to normal retirement age, but no earlier than attainment of age fifty-five, in which event, the amount of his or her retirement benefit computed without optional modification shall be reduced by six and one-half per centum for each year by which early retirement precedes age sixty-three.

* NB There are 2 sb i's

* j. Notwithstanding the other subdivisions of this section, any individual who is subject to the provisions of article fourteen of this chapter who is entitled to receive benefits pursuant to section six hundred four of this article upon attaining the minimum service requirements upon retirement and upon filing an irrevocable election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen, may file such an election with the comptroller on or before the applicable date provided in this section or within one year after entering the employment upon which eligibility is based, whichever occurs later.

* NB There are 2 sb j's

* j. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are Monroe county

deputy sheriff-court security, or deputy sheriffs-jailors as defined in section eighty-nine-n of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before September first, two thousand three or within one year after entering into employment with Monroe county as a deputy sheriff-court security, or deputy sheriff-jailor. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-n and six hundred one of this chapter.

* NB There are 2 sb j's

k. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-o of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-four. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-o and six hundred one of this chapter.

l. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff

or correction officer as defined in section eighty-nine-p of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within one year of an election his or her employer makes or within one year after entering the employment with such county upon which eligibility is based, whichever comes later. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-p and six hundred one of this chapter.

m. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are traffic officers with the town of Elmira as defined in section eighty-nine-q of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before September first, nineteen hundred ninety-six. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-q and six hundred one of this chapter.

n. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed by Suffolk county as a park police officer as defined in section eighty-nine-r of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter,

such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before September first, nineteen hundred ninety-seven. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-r and six hundred one of this chapter.

* o. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, who are employed as peace officers within the Suffolk county probation department, as defined in section eighty-nine-s of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-eight or within one year of entering into service as a peace officer with the Suffolk county probation department. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-s and six hundred one of this chapter.

* NB There are 4 sb o's

* o. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed as ambulance medical technicians, ambulance medical technician/supervisors or a member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services within the Nassau county police department, as defined in section eighty-nine-s of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an

election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before January first, two thousand. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-s and six hundred one of this chapter.

* NB There are 4 sb o's

* o. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed as peace officers within the Nassau county probation department, as defined in section eighty-nine-s of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, nineteen hundred ninety-nine or within one year of entering into service as a peace officer with the Nassau county probation department. Peace officers within the Nassau county probation department must serve five years after the effective date of this subdivision before they are eligible to retire under the provisions of the twenty-five year retirement plan. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-s and six hundred one of this chapter.

* NB There are 4 sb o's

* o. The county of Rockland may elect to provide the service retirement benefit specified in section six hundred four of this article for members with twenty years of creditable service, without regard to age, who are engaged directly in criminal law enforcement activities and who are employed in the office of the district attorney of Rockland county as a chief investigator/detective, criminal

investigator-electronics, criminal investigator-child abuse, senior criminal investigator or criminal investigator if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such members file an election thereof which provides that he or she will be subject to the provisions of this article and to none of the provisions of article fourteen of this chapter. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within one year of the adoption of the resolution by the county of Rockland pursuant to this section or within one year after entering employment in the office of the district attorney of Rockland county in one of the titles aforementioned in this subdivision, whichever is later. If the county of Rockland elects to provide the retirement benefit pursuant to this subdivision, they shall adopt a resolution to such effect and file a certified copy thereof with the comptroller. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-d and six hundred one of this chapter and such term shall, subject to the conditions in such sections eighty-nine-d and six hundred one, also include service as a chief investigator/detective, criminal investigator-electronics or a criminal investigator-child abuse.

* NB There are 4 sb o's

* p. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in a county which makes an election under subdivision j of section eighty-nine-t of this chapter as a peace officer as defined in section eighty-nine-t of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within one year of an election his or her employer makes or within one year after entering the employment with such county upon

which eligibility is based, whichever comes later. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-t and six hundred one of this chapter.

* NB There are 2 sb p's

* p. The service retirement benefit specified in section six hundred four of this article shall be payable without regard to age to qualifying members, as defined in subdivision a of section eighty-nine-t of this chapter, with twenty-five years of qualifying service as defined in such section, if such members have met the minimum service requirements upon retirement. Any such member shall be entitled to retire after the completion of twenty-five years of qualifying creditable service by filing an application therefor in a manner similar to that provided in section seventy of this chapter.

* NB There are 2 sb p's

q. The county of Suffolk may elect to provide the service retirement specified in section six hundred four of this article for members with twenty years of creditable service, without regard to age, who are engaged directly in criminal law enforcement activities and who are employed in the office of the district attorney of Suffolk county as a detective investigator, senior detective investigator, principal detective investigator, special investigator, or district attorney investigator if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such members file an election thereof which provides that he or she will be subject to the provisions of this article and to none of the provisions of article fourteen of this chapter. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within one year of the adoption of the resolution by the county of Suffolk pursuant to this section or within one year after entering employment in the office of the district attorney of Suffolk county in one of the titles aforementioned in this subdivision, whichever is later. If the county of Suffolk elects to provide the retirement benefit pursuant to this subdivision, it shall adopt a resolution to such effect and file a certified copy thereof with the

comptroller. For the purposes and effect of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-d and six hundred one of this chapter and such term shall, subject to the conditions in such sections eight-nine-d and six hundred one, also include service as a detective investigator, senior detective investigator, principal detective investigator, special investigator, or district attorney investigator.

* r. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are with the town of Tonawanda as defined in section eighty-nine-v of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within one year following the effective date of this subdivision or one year following commencement of employment as a paramedic employed by the police department in the town of Tonawanda, whichever is later. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-v and six hundred one of this chapter.

* NB There are 3 sb r's

* r. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed as deputy sheriffs-civil in Rockland county, as defined in section eighty-nine-v of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, two thousand one or within one year of entering into service as a deputy sheriff-civil in

Rockland county. The term "creditable service" shall have the meaning as so defined in section eighty-nine-t, as added by chapter 603 of the laws of 1998 and section six hundred one of this chapter.

* NB There are 3 sb r's

* r. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in Rockland county as a correction officer as defined in section eighty-nine-v of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, two thousand one. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-v and six hundred one of this chapter.

* NB There are 3 sb r's

s. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed in the county of Nassau as a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal or division supervising fire marshal as defined in section eighty-nine-w of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within one year of the effective date of this subdivision or within one year after entering the employment with such county upon which eligibility is based, whichever comes later. For the

purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-w and six hundred one of this chapter.

t. Members who join the New York state teachers' retirement system on or after January first, two thousand ten, shall be eligible to retire without reduction of their retirement benefit upon attainment of at least fifty-seven years of age and completion of thirty or more years of service. Members who retire pursuant to the provisions of this subdivision shall be required to make the member contributions required by subdivision g of section six hundred thirteen of this article for all years of credited and creditable service. The provisions of this subdivision shall not apply to members who first become a member of the New York state teachers' retirement system on or after April first, two thousand twelve, provided, however, that members of the New York state teachers' retirement system or the New York city teachers' retirement system who first became members of such system on or after April first, two thousand twelve may retire without reduction of their retirement benefit upon attainment of at least fifty-eight years of age and completion of thirty or more years of service.

u. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed as deputy sheriffs-civil in Monroe county, as defined in section eighty-nine-x of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, two thousand twenty-four or within one year of entering into service as a deputy sheriff-civil in Monroe county. The term "creditable service" shall have the meaning as so defined in section eighty-nine-x and subdivision c of section six hundred one of this chapter.

v. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed by a participating fire district that makes the election provided for in subdivision j of section eighty-nine-ss of this chapter as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles in a participating Suffolk county fire district as defined in section eighty-nine-ss of this chapter if: (i) such members have met the minimum service requirements upon retirement; and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that such member will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within one year of the election such member's employer makes pursuant to subdivision j of section eighty-nine-ss or within one year after entering the employment with the participating Suffolk county fire district upon which eligibility is based, whichever comes later. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-ss and six hundred one of this chapter.

w. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed by the division of military and naval affairs as a firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer as defined in section eighty-nine-y of this chapter if: (i) such members have met the minimum service requirements upon retirement; and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that they will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller within

one year of the effective date of this subdivision or within one year after entering the employment with the division of military and naval affairs upon which eligibility is based, whichever comes later. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-y and six hundred one of this chapter.

§ 604. Service retirement benefits. a. The service retirement benefit at normal retirement age for a member with less than twenty years of credited service, or less than twenty-five years credited service for a member who joins the New York state teachers' retirement system on or after January first, two thousand ten, shall be a retirement allowance equal to one-sixtieth of final average salary times years of credited service. Normal retirement age for members who first become members of a public retirement system of the state on or after April first, two thousand twelve shall be age sixty-three, provided, however, that members of the New York state teachers' retirement system or the New York city teachers' retirement system who first became members of such system on or after April first, two thousand twelve may retire without reduction of their retirement benefit upon attainment of at least fifty-eight years of age and completion of thirty or more years of service.

b. The service retirement benefit at normal retirement age for a member with twenty years or more of credited service, or with twenty-five or more years credited service for a member who first joins the New York state teachers' retirement system on or after January first, two thousand ten, shall be a retirement allowance equal to one-fiftieth of final average salary times years of credited service not in excess of thirty years.

Credited service in excess of thirty years shall provide an additional retirement allowance equal to three-two hundredths of the final average salary for each year of credited service in excess of thirty years.

b-1. Notwithstanding any other provision of law to the contrary, the

service retirement benefit for members with twenty or more years of credit service who first become a member of a public retirement system of the state on or after April first, two thousand twelve at age sixty-three or for members of the New York state teachers' retirement system or the New York city teachers' retirement system who first became members of such system on or after April first, two thousand twelve upon attainment of at least fifty-eight years of age and completion of thirty or more years of service, shall be a pension equal to the sum of thirty-five per centum and one-fiftieth of final average salary for each year of service in excess of twenty times final average salary times years of credited service. In no event shall any retirement benefit payable without optional modification be less than the actuarially equivalent annuitized value of the member's contributions accumulated with interest at five percent per annum compounded annually to the date of retirement.

c. The early service retirement benefit for a member who is a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such correction officer, but not exceeding one-half of his or her final average salary.

d. 1. The early service retirement for a member who is employed in Suffolk county as a correction officer as defined in section eighty-nine-f of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such correction officer, but not exceeding one-half of such member's final average salary.

2. The early service retirement for a member who is employed in Suffolk county as a correction officer as defined in section eighty-nine-f of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of thirty years of service as such correction officer, but not exceeding sixty percent of such member's final average salary.

e. The early service retirement for a member who is employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, but not exceeding one-half of his or her final average salary.

f. The early service retirement for a member who is employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer as defined in section eighty-nine-h of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such sheriff, undersheriff, deputy sheriff, correction officer or identification officer, but not exceeding one-half of his or her final average salary.

** g. The early service retirement benefit for a member who is employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-i of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such sheriff, undersheriff, deputy sheriff or correction officer, but not exceeding one-half of his or her final average salary.

** NB There are 3 sb g's

** g. The early service retirement benefit for a member who is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-l of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such sheriff, undersheriff, deputy sheriff or correction officer, but not exceeding one-half of his or her final average salary.

** NB There are 3 sb g's

** g. The early service retirement benefit for a member who is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff

or correction officer as defined in section eighty-nine-j of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such sheriff, undersheriff, deputy sheriff or correction officer, but not exceeding one-half of his or her final average salary.

** NB There are 3 sb g's

h. The early service retirement benefit for a member who is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer as defined in section eighty-nine-k of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such deputy sheriff-jail division competitively appointed or as such correction officer, but not exceeding one-half of his or her final average salary.

i. 1. The early service retirement benefit for a member who is employed in the office of the district attorney of Westchester county as a chief criminal investigator, deputy chief criminal investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator or criminal investigator/arson shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such chief criminal investigator, deputy chief criminal investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator or criminal investigator/arson, but not exceeding one-half of his or her final average salary.

2. Notwithstanding the provisions of paragraph one of this subdivision, if the county of Westchester elects to provide the retirement benefit pursuant to this paragraph by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, the early service retirement benefit for a member who is employed in the office of the district attorney of Westchester county as a chief criminal investigator, deputy chief criminal investigator, criminal investigator, senior criminal investigator, confidential criminal

investigator, assistant criminal investigator or criminal investigator/arson shall be a pension equal to one-fortieth of final average salary times years of credited service at the completion of twenty years of service as such chief criminal investigator, deputy chief criminal investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator or criminal investigator/arson, but not exceeding one-half of his or her final average salary.

j. The early service retirement benefit for a member who is employed in Broome county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-m of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such sheriff, undersheriff, deputy sheriff or correction officer, but not exceeding one-half of his or her final average salary.

k. The early service retirement benefit for a member who is a Monroe county deputy sheriff-court security, or deputy sheriff-jailor as defined in section eighty-nine-n of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such deputy sheriff-court security, or deputy sheriff-jailor, but not exceeding one-half of his or her final average salary.

l. The early service retirement for a member who is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-o of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such sheriff, undersheriff, deputy sheriff or correction officer, but not exceeding one-half of his or her final average salary.

m. The early service retirement benefit for a member who is employed in a county that makes the election provided for in subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in section eighty-nine-p of

this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such sheriff, undersheriff, deputy sheriff or correction officer, but not exceeding one-half of his or her final average salary.

n. The early service retirement benefit for a member who is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such traffic officer, but not exceeding one-half of his or her final average salary.

o. The early service retirement for a member who is employed by Suffolk county as a park police officer as defined in section eighty-nine-r of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such park police officer, but not exceeding one-half of his or her final average salary. As used in this section "creditable service" shall include any and all services performed as a park police officer of the Suffolk county department of parks, and any and all services performed as a park ranger of the Suffolk county department of parks.

** p. The early service retirement for a member who is employed as a peace officer as defined in section eighty-nine-s of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such probation officer, but not exceeding one-half of his or her final average salary.

** NB There are 4 sb p's

* p. The early service retirement for a member who is employed as an ambulance medical technician, ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services as defined in section eighty-nine-s of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five

years of service, but not exceeding one-half of his or her final average salary; for service beyond twenty-five years the benefits shall increase by one-sixtieth of final average salary for each year of additional service credit provided, however, that the total allowance payable pursuant to this section shall not exceed three-fourths of such member's final average salary.

** NB There are 4 sb p's

** p. The early service retirement for a member who is employed as a peace officer as defined in section eighty-nine-s of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such probation officer, but not exceeding one-half of his or her final average salary.

** NB There are 4 sb p's

** p. If the county of Rockland elects to provide the retirement benefit pursuant to this subdivision by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, the early service retirement benefit for a member who is employed in the office of the district attorney of Rockland county as a chief investigator/detective, criminal investigator-electronics, criminal investigator-child abuse, senior criminal investigator or criminal investigator shall be a pension equal to one-fortieth of final average salary times years of credited service for the first twenty years of service plus an additional one-sixtieth of final average salary times years of credited service for each year beyond the first twenty years of service as such chief investigator/detective, criminal investigator-electronics, criminal investigator-child abuse, senior criminal investigator or criminal investigator, but not exceeding three-fourths of his or her final average salary.

** NB There are 4 sb p's

** q. The early service retirement benefit for a member who is employed in a county that makes the election provided for in subdivision j of section eighty-nine-t of this chapter as a peace officer as defined in section eighty-nine-t of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such peace officer in a county probation department, but not exceeding one-half of his or her

final average salary.

** NB There are 2 sb q's

** q. The early service retirement benefit for a member who is a qualifying member as defined in subdivision a of section eighty-nine-t of this chapter shall be a pension equal to one-fiftieth of final average salary times years of qualifying service, as defined in section eighty-nine-t of this chapter, at the completion of twenty-five years of such service, but not exceeding one-half of his or her final average salary.

** NB There are 2 sb q's

r. If the county of Suffolk elects to provide the retirement benefit pursuant to this subdivision by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, the early service retirement benefit for a member which is employed in the office of the district attorney of Suffolk county as a detective investigator, senior detective investigator, principal detective investigator, special investigator, or district attorney investigator, shall be a pension equal to one-fortieth of final average salary times years of credited service for the first twenty years of service plus an additional one-sixtieth of final average salary times years of credited service beyond the first twenty years of service as such detective investigator, senior detective investigator, principal detective investigator, special investigator, or district attorney investigator, but not exceeding three fourths of his or her final average salary.

** s. The early service retirement benefit for a member who is a paramedic employed by the police department in the town of Tonawanda as defined in section eighty-nine-v of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such paramedic, but not exceeding one-half of his or her final average salary. In addition thereto, upon retirement, each such member shall receive, for each year of service in excess of twenty-five years, a pension which shall be equal to one-sixtieth of his or her final average salary. The total allowance payable pursuant to this section shall not exceed three-quarters of such member's final average salary.

** NB There are 3 sb s's

** s. The early service retirement for a member who is employed as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such deputy sheriff-civil, but not exceeding one-half of his or her final average salary.

** NB There are 3 sb s's

** s. The early service retirement for a member who is employed in Rockland county as a correction officer as defined in section eighty-nine-v of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such correction officer, but not exceeding one-half of his or her final average salary.

** NB There are 3 sb s's

t. The early service retirement benefit for a member who is employed in the county of Nassau as a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal or division supervising fire marshal as defined in section eighty-nine-w of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal or division supervising fire marshal, but not exceeding one-half of his or her final average salary.

u. The early service retirement for a member who is employed as a deputy sheriff-civil as defined in section eighty-nine-x of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such deputy sheriff-civil, but not exceeding one-half of his or her final average salary.

v. The early service retirement benefit for a member who is employed by a participating fire district that makes the election provided for in subdivision j of section eighty-nine-ss of this chapter as an emergency

medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles in a participating Suffolk county fire district as defined in section eighty-nine-ss of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such participating Suffolk county fire district emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles, but not exceeding one-half of his or her final average salary; for service beyond twenty-five years the benefits shall increase by one-sixtieth of final average salary for each year of additional service credit provided, however, that the total allowance payable pursuant to this section shall not exceed three-fourths of such member's final average salary.

w. The early service retirement benefit for a member who is employed in the division of military and naval affairs as a firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer employed as defined in section eighty-nine-y of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such division of military and naval affairs firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer, but not exceeding one-half of their final average salary.

§ 604-a. Twenty-year retirement program for New York city sanitation members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "New York city sanitation member" shall mean a member (as defined in subdivision e of section six hundred one of this article) who is a member of the uniformed force of the New York city department of sanitation.

2. "Twenty-year retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-year retirement program" shall mean the commencement date of the payroll period which includes July first, nineteen hundred ninety-two.

4. "Enactment date of the twenty-year retirement program" shall mean the date of enactment of the act which added this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-year retirement program" shall mean any New York city sanitation member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year retirement program, as applicable to him or her.

6. "Allowable service in the uniformed sanitation force" shall mean:

(i) credited service which was rendered as a member of the uniformed force of the New York city department of sanitation; and

(ii) credited service which was rendered in another uniformed force (as defined in paragraph seven of this subdivision) immediately prior to becoming a member of the uniformed force of the New York city department of sanitation; and

(iii) credited service which was rendered in the uniformed force of the New York city police department or the uniformed force of the New York city fire department immediately prior to becoming a member of the uniformed force of the New York city department of sanitation and which was transferred to the New York city employees' retirement system pursuant to section forty-three of this chapter.

7. "Another uniformed force" shall mean (i) the uniformed transit police force maintained by the New York city transit authority and by its predecessor, the board of transportation; or (ii) all of the positions in the New York city housing authority which are included in the housing police service of the classification of the New York city

department of personnel; or (iii) the uniformed force of the New York city department of correction.

8. "Minimum period" shall mean the minimum period of twenty years of allowable service in the uniformed sanitation force that is required in order for a participant in the twenty-year retirement program to be eligible for early service retirement pursuant to paragraph one of subdivision c of this section.

9. "Final compensation" shall mean the average compensation earned by a member during any five consecutive years which provide the highest average compensation. Where the period used to determine final compensation is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final compensation but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final compensation and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

10. "Discontinued member" shall mean a participant in the twenty-year retirement program who, while he or she was a New York city sanitation member, discontinued service in the uniformed force of the New York city department of sanitation and has a right to a deferred vested benefit under subdivision d of this section.

11. "Administrative code" shall mean the administrative code of the city of New York.

b. Participation in twenty-year retirement program.

1. Subject to the provisions of paragraph six of this subdivision, any person who is a New York city sanitation member on the enactment date of the twenty-year retirement program and who, as such a sanitation member or otherwise, last became subject to the provisions of this article prior to such enactment date, may elect to become a participant in the twenty-year retirement program by filing, within ninety days after the

enactment date of the twenty-year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a sanitation member on the date such application is filed.

2. Subject to the provisions of paragraph six of this subdivision, any person who becomes a New York city sanitation member after the enactment date of the twenty-year retirement program and who, as such a sanitation member or otherwise, last became subject to the provisions of this article prior to such enactment date, may elect to become a participant in the twenty-year retirement program by filing, within ninety days after becoming such a sanitation member, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a sanitation member on the date such application is filed.

3. Any election to be a participant in the twenty-year retirement program shall be irrevocable.

4. Each New York city sanitation member who becomes subject to the provisions of this article on or after the enactment date of the twenty-year retirement program shall become a participant in the twenty-year retirement program on the date he or she becomes such a sanitation member.

5. Where any participant in the twenty-year retirement program shall cease to hold a position in the uniformed force of the New York city department of sanitation, he or she shall cease to be such a participant and, during any period in which such person does not hold such a uniformed sanitation position, he or she shall not be a participant in the twenty-year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-year retirement program terminates service in the uniformed force of the New York city department of sanitation and returns to such service as a New York city sanitation member at a later date, he or she shall again become such a

participant on that date.

c. Service retirement benefits. 1. A participant in the twenty-year retirement program:

(i) who has completed twenty or more years of allowable service in the uniformed sanitation force; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(iv) who shall be a participant in the twenty-year retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, the early service retirement benefit for participants in the twenty-year retirement program who retire pursuant to paragraph one of this subdivision shall be a pension consisting of:

(A) an amount, on account of the required minimum period of service, equal to one-half of his or her final average salary; plus

(B) an amount for each additional year of allowable service in the uniformed sanitation force, or fraction thereof, beyond such required minimum period of service equal to one and one-half percent of his or her final compensation; plus

(C) an amount for each year, or fraction thereof, of credited service other than allowable service in the uniformed sanitation force equal to one percent of his or her final compensation.

(ii) The maximum pension computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall equal that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-year retirement program who:

(i) discontinues city-service and service as a member of the uniformed

force of the New York city department of sanitation, other than by death or retirement; and

(ii) prior to such discontinuance, completed five but less than twenty years of allowable service in the uniformed sanitation force; and

(iii) has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen of this article; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

3. Such deferred vested benefit shall be a pension consisting of:

(i) an amount equal to two and one-half percent of such discontinued member's final average salary, multiplied by the number of years of allowable service in the uniformed sanitation force credited to such discontinued member on the date of such discontinuance; plus

(ii) an amount for each year, or fraction thereof, of credited service other than allowable service in the uniformed sanitation force equal to one percent of his or her final compensation.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-year retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional five and thirty-five one-hundredths percent of his or her compensation earned from all allowable service in the uniformed

sanitation force rendered on and after the starting date of the twenty-year retirement program. A participant in the twenty-year retirement program shall contribute additional member contributions only until he or she has twenty years of allowable service in the uniformed sanitation force.

2. (i) Commencing with the payroll period which begins on the starting date of the twenty-year retirement program (for a person who elects to become a participant prior to such starting date), or commencing with the first full payroll period after a person becomes such a participant (for a person who becomes a participant on or after such starting date), additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

(ii) (A) Where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to subparagraph (i) of this paragraph because such contributions are for service rendered in a payroll period prior to the actual commencement of deductions pursuant to such subparagraph (i), such amounts shall be paid by deductions from the compensation of such participant pursuant to item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from a participant's compensation are begun pursuant to subparagraph (i) of this paragraph, in addition to such deductions required by such subparagraph (i), there shall be another deduction of additional member contributions made from the compensation of such participant at the rate specified in paragraph one of this subdivision (subject to the applicable provisions of section 13-125.1 of the administrative code) on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph.

3. (i)(A) Where any additional member contributions required by

paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision, that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with such interest thereon as required by subparagraph (ii) of this paragraph, compounded annually.

(B) Except as provided in subparagraph (ii) of this paragraph, no participant shall be required to pay any interest on his or her contribution deficiency.

(ii)(A) Should any person who, pursuant to paragraph eight of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to item (B) of this subparagraph) as if such additional contributions had never been made.

(B) Interest on the amounts of additional member contributions included in a participant's contribution deficiency pursuant to item (A) of this subparagraph shall be calculated as if such additional member contributions had never been paid by a participant, and such interest shall accrue from the end of the payroll period to which an amount of additional member contributions is attributable, until such amount is paid to the retirement system.

(C) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

4. A participant, while he or she is a New York city sanitation member, shall pay the total amount of his or her contribution deficiency to the retirement system in accordance with payment procedures which shall be established by the executive director of the retirement system, and approved by the board of trustees of the retirement system.

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full before the effective date of retirement, that participant shall not

be eligible to retire pursuant to subdivision c of this section.

6. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full before the date of discontinuance of service, that participant shall not be entitled to a deferred vested benefit pursuant to subdivision d of this section.

7. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to paragraph eight of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

8. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) (A) Should a participant in the twenty-year retirement program who has rendered less than fifteen years of allowable service in the uniformed sanitation force cease to hold a position in the uniformed force of the New York city department of sanitation for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five

percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-year retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Except as provided in subparagraph (ii) of this paragraph, no member while he or she is a participant or otherwise, shall have a right to withdraw such additional member contributions or an interest thereon from the retirement system.

9. No member of a public retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon by the participant) which are subject to this subdivision.

§ 604-b. Twenty-five-year and age fifty-five retirement program for New York city transit authority members. a. Definitions. The following words or phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context:

1. "New York city transit authority member" shall mean a member (as defined in subdivision e of section six hundred one of this article) who (a) is an employee of the New York city transit authority, and (b) would have been subject to the provisions of section 13-161 of the administrative code of the city of New York had he joined the New York city employees' retirement system prior to July twenty-seven, nineteen hundred seventy-six.

2. "Twenty-five-year and age fifty-five retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-five-year and age fifty-five retirement program" shall mean the commencement date of the payroll period which includes September first, nineteen hundred ninety-four.

4. "Enactment date of the twenty-five-year and age fifty-five retirement program" shall mean the date of enactment of the chapter of the laws of nineteen hundred ninety-four which added this section, as such date is certified pursuant to section forty-one of the legislative law.

5. "Participant in the twenty-five-year and age fifty-five retirement program" shall mean any New York city transit authority member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five-year and age fifty-five retirement program, as applicable to him or her.

6. "Allowable service in the transit authority" shall mean credited service which was rendered as a member of the New York city transit authority.

7. "Minimum period" shall mean the minimum period of twenty-five years of allowable service in the transit authority that is required in order for a participant in the twenty-five-year and age fifty-five retirement program to be eligible for early service retirement pursuant to paragraph one of subdivision c of this section.

8. "Final average salary" shall mean a participant's final average salary as defined in section six hundred eight of this article.

9. "Discontinued member" shall mean a participant in the twenty-five-year and age fifty-five retirement program who, while he or she was a New York city transit authority member, discontinued service in the New York city transit authority and has a right to a deferred vested benefit under subdivision d of this section.

10. "Administrative code" shall mean the administrative code of the

city of New York.

b. Participation in twenty-five-year and age fifty-five retirement program.

1. Subject to the provisions of paragraph six of this subdivision, any person who is a New York city transit authority member on the enactment date of the twenty-five-year and age fifty-five retirement program and who, as such a transit authority member or otherwise, last became subject to the provisions of this article prior to such enactment date, may elect to become a participant in the twenty-five-year and age fifty-five retirement program by filing, within forty-five days after the enactment date of the twenty-five-year and age fifty-five retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a transit authority member on the date such application is filed.

2. Subject to the provisions of paragraph six of this subdivision, any person who becomes a New York city transit authority member after the enactment date of the twenty-five-year and age fifty-five retirement program and who, as such a transit authority member, last became subject to the provisions of this article prior to such enactment date, may elect to become a participant in the twenty-five-year and age fifty-five retirement program by filing, within forty-five days after becoming such transit authority member, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a transit authority member on the date such application is filed.

3. (i) Any election to be a participant in the twenty-five-year and age fifty-five retirement program shall be irrevocable, except as provided in subparagraph (ii) of this paragraph.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, any New York city transit authority member who elected to become a participant in the twenty-five-year and age fifty-five retirement program pursuant to the provisions of paragraph one or

paragraph two of this subdivision, and whose age and allowable service in the transit authority are such that he could not possibly be able to accumulate at least twenty-five years of such service by the time he reaches age sixty-two, may revoke such election by filing within the period beginning November first, nineteen hundred ninety-nine and ending January thirtieth, two thousand, a written request to withdraw from such program with the retirement system of which he is member. Upon such revocation the additional member contributions required by subdivision e of this section, without interest, shall be refunded to such member.

4. Each New York city transit authority member who becomes subject to the provisions of this article on or after the enactment date of the twenty-five-year and age fifty-five retirement program shall become a participant in the twenty-five-year and age fifty-five retirement program on the date he or she becomes such a transit authority member.

4-a. (i) Notwithstanding any provision of paragraphs one and two of this subdivision to the contrary, each person who is a New York city transit authority member on the starting date of the elimination of additional member contributions as such date is defined in an election made pursuant to paragraph ten of subdivision e of this section and who is not on that date a participant in the twenty-five-year and age fifty-five retirement program shall become a participant in the twenty-five-year and age fifty-five retirement program on such starting date; provided, however, that any such person who, immediately preceding such starting date, was a participant in the age fifty-seven retirement program set forth in section six hundred four-d of this article may elect to remain a participant in the age fifty-seven retirement program, instead of becoming a participant in the twenty-five-year and age fifty-five retirement program, by filing a written election to that effect with the retirement system of which such person is a member.

(ii) Notwithstanding any provision of paragraph two of this subdivision to the contrary, any person who becomes a New York city transit authority member after the starting date of the elimination of additional member contributions, whether such person became subject to the provisions of this article prior to or subsequent to the enactment date of the twenty-five-year and age fifty-five retirement program,

shall become a participant in the twenty-five-year and age fifty-five retirement program, on the date he or she becomes such a transit authority member.

5. Where any participant in the twenty-five-year and age fifty-five retirement program shall cease to hold a position as a New York city transit authority member, he or she shall cease to be such a participant and, during any period in which such person does not hold such a transit authority position, he or she shall not be a participant in the twenty-five-year and age fifty-five retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five-year and age fifty-five retirement program terminates service as a New York city transit authority member and returns to such service as a New York city transit authority member at a later date, he or she shall again become such a participant on that date.

7. Where any participant in the twenty-five-year and age fifty-five retirement program terminates service as a New York city transit authority member due to having been promoted to a position that does not entail eligibility for such such program, the accumulated additional member contributions made pursuant to subdivision e of this section by such participant (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

c. Service retirement benefits. 1. A participant in the twenty-five-year and age fifty-five retirement program:

(i) who has completed twenty-five or more years of allowable service in the transit authority; and

(ii) who has attained age fifty-five; and

(iii) who has paid, before the effective date of retirement, all additional member contributions and interest, if any, required by subdivision e of this section; and

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(v) who shall be a participant in the twenty-five-year and age fifty-five retirement program at the time so specified for his or her retirement;

shall be retired pursuant to the provisions of this section affording early service retirement.

2. Notwithstanding any other provision of law to the contrary, the early service retirement benefit for participants in the twenty-five-year and age fifty-five retirement program who retire pursuant to paragraph one of this subdivision shall be a pension consisting of:

(i) an amount, on account of the required minimum period of twenty-five years of allowable service, equal to one-half of his or her final average salary; plus

(ii) an amount for each additional year of allowable service, or fraction thereof, beyond such required minimum period of twenty-five years of allowable service, equal to two percent of his or her final average salary, to a maximum of thirty years of allowable service; plus

(iii) an amount for each additional year of allowable service, or fraction thereof, in excess of thirty years of allowable service, equal to one and one-half percent of his or her final average salary.

d. Vesting. 1. A participant in the twenty-five-year and age fifty-five retirement program who:

(i) discontinues city-service and service as a member of the New York city transit authority other than by death or retirement; and

(ii) prior to such discontinuance, completed five but less than twenty-five years of allowable service in the transit authority; and

(iii) has paid, prior to such discontinuance, all additional member contributions and interest, if any, required by subdivision e of this section; and

(iv) does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and

repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen of this article;
shall be entitled to receive a deferred vested benefit as provided in section six hundred twelve of this article.

2. A participant in the twenty-five year and age fifty-five retirement program who:

(i) discontinues city service and service as a New York city transit authority member other than by death or retirement with immediate payability; and

(ii) prior to such discontinuance completed twenty-five years of allowable service in the transit authority; and

(iii) has not yet attained age fifty-five; and

(iv) has paid, prior to such discontinuance, all additional member contributions with interest (if any) required by subdivision e of this section; and

(v) does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen of this article; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

3. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph two of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three.

4. Such deferred vested benefit shall be determined pursuant to the provisions of paragraph two of subdivision c of this section.

e. Additional member contributions. 1. In addition to the member

contributions required by section six hundred thirteen of this article, each participant in the twenty-five-year and age fifty-five retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional two and thirty-hundredths percent of his or her compensation earned from all allowable service in the transit authority rendered on and after the starting date of the twenty-five-year and age fifty-five retirement program. A participant in the twenty-five-year and age fifty-five retirement program shall contribute additional member contributions only until he or she has thirty years of allowable service in the transit authority. In the event that the New York city transit authority elects to eliminate additional member contributions pursuant to paragraph ten of this subdivision, a participant in the twenty-five-year and age fifty-five retirement program who becomes a participant pursuant to the provisions of paragraph four-a of subdivision b of this section shall not be required to make any additional member contributions pursuant to this subdivision.

2. (i) Commencing with the payroll period which begins on the starting date of the twenty-five-year and age fifty-five retirement program (for a person who elects to become a participant prior to such starting date), or commencing with the first full payroll period after a person becomes such a participant (for a person who becomes a participant on or after such starting date), additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

(ii) (A) Where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to subparagraph (i) of this paragraph because such contributions are for service rendered in a payroll period prior to the actual commencement of deductions pursuant to such subparagraph (i), such amounts shall be paid by deductions from the compensation of such participant pursuant to item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from a participant's compensation are begun pursuant to subparagraph (i) of this paragraph, in addition to such deductions required by such subparagraph (i), there shall be another deduction of additional member contributions made from the compensation of such participant at the rate specified in paragraph one of this subdivision (subject to the applicable provisions of section 13-125.1 of the administrative code) on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph.

3. (i) (A) Where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision, that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with such interest thereon as required by subparagraph (ii) of this paragraph, compounded annually.

(B) Except as provided in subparagraph (ii) of this paragraph, no participant shall be required to pay any interest on his or her contribution deficiency.

(ii) (A) Should any person who, pursuant to paragraph eight of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five-year and age fifty-five retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to item (B) of this subparagraph) as if such additional contributions had never been made.

(B) Interest on the amounts of additional member contributions included in a participant's contribution deficiency pursuant to item (A) of this subparagraph shall be calculated as if such additional member contributions had never been paid by a participant, and such interest shall accrue from the end of the payroll period to which an amount of additional member contributions is attributable, until such amount is paid to the retirement system.

(C) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

4. A participant, while he or she is a New York city transit authority member, shall pay the total amount of his or her contribution deficiency to the retirement system in accordance with payment procedures which shall be established by the executive director of the retirement system, and approved by the board of trustees of the retirement system.

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full before the effective date of retirement, that participant shall not be eligible to retire pursuant to subdivision c of this section.

6. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full before the date of discontinuance of service, that participant shall not be entitled to a deferred vested benefit pursuant to subdivision d of this section.

7. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article, a refund of additional member contributions pursuant to paragraph eight of this subdivision or a refund of additional member contributions pursuant to paragraph seven of subdivision b of this section, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

8. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise

while he or she is a participant in the twenty-five-year and age fifty-five retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) (A) Should a participant in the twenty-five-year and age fifty-five retirement program who has rendered less than twenty-five-years of allowable service in the transit authority cease to hold a position as a New York city transit authority member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) maybe withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-five-year and age fifty-five retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Except as provided in subparagraph (ii) of this paragraph, no member while he or she is a participant or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

9. A member who has made the additional contributions specified by this subdivision may borrow a portion of such contributions, pursuant to the provisions of section six hundred thirteen-b of this article.

10. The New York city transit authority, by the adoption of a resolution or resolutions, may make an election or elections to eliminate the additional member contributions required to be made

pursuant to paragraph one of this subdivision. Such election or elections may be made applicable to all employees of the transit authority, to employees who are represented by a specific collective bargaining organization, recognized or certified pursuant to article fourteen of the civil service law, and/or to employees who are not represented for the purposes of collective bargaining. Such election or elections shall define the starting date of the elimination of additional member contributions, except as set forth below, which shall in no event be earlier than the first payroll period following December fifteenth, two thousand. An election made pursuant to this paragraph shall be irrevocable. A demand for an elimination of additional member contributions shall not be subject to the provisions of subdivision five of section two hundred nine of the civil service law. The New York city transit authority shall notify the head of the New York city employees' retirement system of any election or elections made pursuant to this paragraph. Notwithstanding the aforementioned starting date of the elimination of additional member contributions or any other provision of this section, an eligible participant, as defined below, shall be entitled to a refund of all of his or her accumulated additional member contributions made pursuant to this subdivision which shall include any and all interest thereon paid to the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually, and such refund shall be payable, upon such participant's application, pursuant to procedures promulgated in regulations of the board of trustees of the retirement system. An eligible participant shall be a participant (i) who is or was employed in a title represented for purposes of collective bargaining by an employee organization representing a majority of non-supervisory employees in the New York city transit authority's Queens Bus and/or Staten Island Bus Divisions, recognized or certified pursuant to article fourteen of the civil service law, and who, on December twenty-eight, two thousand five, had an accumulated balance of additional member contributions at the retirement system; or (ii) who is or was employed in a title represented for purposes of collective bargaining by the employee organization representing the majority of non-supervisory employees in the New York city transit authority in other than the Queens Bus and/or Staten Island Bus Divisions, recognized or certified pursuant to article fourteen of

the civil service law, and who, on December sixteenth, two thousand five, had an accumulated balance of additional member contributions at the retirement system.

11. Notwithstanding any provision of law, rule or regulation to the contrary, any member who is a current member of the New York city transit authority twenty-five year and age fifty-five retirement plan authorized in this section:

(i) whose name was included on a preferred eligible list during any period occurring on or after May eleventh, two thousand ten and on or prior to July twenty-fifth, two thousand twelve, by reason of the abolition of a position held by him or her with the New York city transit authority; and

(ii) who was a member or former member at the time when his or her name was placed on such list;

shall be permitted to contribute to such retirement plan, the amount which he or she would have contributed to such system for the duration of time his or her name was included on such list, together with regular interest on such amount, and the length of credited time for which contributions are made pursuant to this paragraph shall be credited as allowable service in the transit authority plan under this section for all purposes, including eligibility for benefits.

*** § 604-c. Supplemental retirement allowance.** Individuals who are receiving benefits from the New York state and local employees' retirement system pursuant to this article shall be entitled to supplemental retirement benefits provided in section seventy-eight of this chapter if they meet all of the eligibility requirements provided in section seventy-eight of this chapter.

* NB There are 3 § 604-c's

*** § 604-c. Optional twenty-five-year early retirement program for certain New York city members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "NYCERS" shall mean the New York city employees' retirement system.
2. "BERS" shall mean the board of education retirement system of the city of New York.
3. "Administrative code" shall mean the administrative code of the city of New York.
4. "BERS rules and regulations" shall mean the rules and regulations for the government, management and control of BERS adopted pursuant to section twenty-five hundred seventy-five of the education law.
5. "New York city eligible position" shall mean:
 - (i) with respect to members of NYCERS, all positions in city-service (as defined in subdivision three of section 13-101 of the administrative code), except (a) any position in the uniformed transit police force, as defined in subdivision thirty-one of section 13-101 of the administrative code; (b) any position in the New York city transit authority which is covered by the provisions of section six hundred four-b of this article, whether or not the person employed in such position is a participant in the retirement program set forth in such section six hundred four-b of this article; (c) any position in the housing police service, as defined in subdivision thirty-five of section 13-101 of the administrative code; (d) any position in the uniformed correction force, as defined in subdivision thirty-nine of section 13-101 of the administrative code; (e) any position in the uniformed force of the department of sanitation, as defined in subdivision sixty-two of section 13-101 of the administrative code; (f) the positions of bridge and tunnel officer, bridge and tunnel sergeant, bridge and tunnel lieutenant, assistant bridge and tunnel maintainer, bridge and tunnel maintainer, senior bridge and tunnel maintainer and laborer with the Triborough bridge and tunnel authority; (g) any position in the division of housing and community renewal; (h) any position in the unified court system; (i) any teaching position with the city university of New York; and (j) any position as an investigator member; or

(ii) with respect to members of BERS, all positions in education service (as defined in paragraph thirteen of this subdivision), except any position as a substitute teacher or any other position represented by the recognized teacher organization for collective bargaining purposes.

6. "New York city eligible member" shall mean a member of NYCERS or BERS who is subject to the provisions of this article and who is employed in a New York city eligible position.

7. "Twenty-five-year early retirement program" shall mean all the terms and conditions of this section.

8. "Starting date of the twenty-five-year early retirement program" shall mean the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-five.

9. "Enactment date of the twenty-five-year early retirement program" shall mean the date this section takes effect.

10. "Participant in the twenty-five-year early retirement program" shall mean any New York city eligible member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five-year early retirement program, as applicable to him or her.

11. "Physically taxing position" shall mean, for a member of NYCERS, a New York city eligible position which is a physically taxing position as defined in subdivision fifty-six of section 13-101 of the administrative code or, for a member of BERS, a New York city eligible position which is a physically taxing position as defined in subdivision thirty-five of section two of the BERS rules and regulations.

12. "Participating retirement system" shall mean NYCERS or BERS.

13. "Education service" shall mean service as a paid official or employee of the board of education of the city of New York or the New

York city school construction authority, and allowable pursuant to the applicable provisions which govern the service credit of a member of BERS.

14. "Active or retired employee of the council of the city of New York" shall mean all duly sworn members of the New York city council as well as all salaried employees who comprise the staff of the city council on a full-time or part-time basis who are either in active service on the effective date of this paragraph or who retired from such service.

15. "Retired employee of the council of the city of New York" shall mean all duly sworn members of the New York city council as well as all salaried employees who comprise the staff of the city council on a full-time or part-time basis who are retired from active service.

b. Participation in twenty-five-year early retirement program. 1. Subject to the provisions of paragraphs five, six and seven of this subdivision, any person who is employed in a New York city eligible position on the enactment date of the twenty-five-year early retirement program, and who is a New York city eligible member in active service on such enactment date, may elect to become a participant in the twenty-five-year early retirement program by filing, within ninety days after the enactment date of the twenty-five-year early retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed. Notwithstanding this provision, a New York city eligible member in active service on the enactment date of the twenty-five-year early retirement program who is an active or retired employee of the council of the city of New York may elect to participate in the twenty-five-year early retirement program at any time subsequent to the enactment date of such program.

2. Subject to the provisions of paragraphs five, six and seven of this subdivision, any person (i) who is employed in a New York city eligible position on the enactment date of the twenty-five-year early retirement

program, or who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age, and (ii) who becomes a New York city eligible member in active service after such enactment date, may elect to become a participant in the twenty-five year early retirement program by filing, within ninety days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

2-a. Notwithstanding any other provision of this subdivision or any other provision of law to the contrary, no member who becomes subject to the provisions of this article on or after the effective date of this paragraph shall be a participant in the twenty-five-year early retirement program.

3. (i) Except as provided in subparagraph (ii) of this paragraph, any election to be a participant in the twenty-five-year early retirement program shall be irrevocable.

(ii) Notwithstanding any other provision of law to the contrary, any participant in the twenty-five-year early retirement program whose age and amount of credited service (which amount of credited service shall, for the limited purposes only of this subparagraph, include service rendered previous to becoming a member which is not yet credited, but for which such person is or may become eligible to obtain credit pursuant to section six hundred nine of this article) at the time of first becoming such a participant are such that he or she could not possibly be able to accumulate a total of at least twenty-five years of credited service by the time he or she reaches age sixty-two, assuming such person were to earn a full year of credited service in each and every year until he or she becomes sixty-two years of age (whether or not such person actually intends to earn such amounts of credit), may withdraw from the twenty-five-year early retirement program by filing, within two years after first becoming such a participant, or within the period beginning November first, nineteen hundred ninety-seven and ending January thirtieth, nineteen hundred ninety-eight, a written

request to withdraw from such program with the retirement system of which such person is a member.

4. Where any participant in the twenty-five-year early retirement program shall cease to hold a New York city eligible position, he or she shall cease to be such a participant and, during any period in which such person is not a New York city eligible member, he or she shall not be a participant in the twenty-five-year early retirement program.

5. Where any participant in the twenty-five-year early retirement program terminates service in a New York city eligible position and returns to service in a New York city eligible position at a later date and again becomes a New York city eligible member, he or she shall again become such a participant upon becoming a New York city eligible member.

6. For the limited purposes only of determining eligibility to elect to become a participant in the twenty-five-year early retirement program pursuant to paragraph one or two of this subdivision, a person shall be deemed to be employed in a New York city eligible position on the enactment date of the twenty-five-year early retirement program if, on such enactment date, such person is (i) in active service in a New York city eligible position, (ii) on a leave of absence without pay from a New York city eligible position approved by his or her public employer, and such person returns to active service in a New York city eligible position after such enactment date and within five years after beginning such unpaid leave of absence or (iii) on suspension without pay from a New York city eligible position, and such person is reinstated from such suspension to active service in such an eligible position after such enactment date by his or her public employer.

7. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the twenty-five-year early retirement program pursuant to paragraph one or two of this subdivision for the full ninety-day period provided for in such applicable subparagraph, and who fails to timely file a duly executed application for such participation with the appropriate retirement system, shall not thereafter be eligible to become a

participant in such program. The provisions of this paragraph shall not bar participation in such program, however, by a New York city eligible member in active service on the enactment date of the twenty-five-year early retirement program who is an active or retired employee of the council of the city of New York.

c. 1. Non-physically taxing service retirement. A participant in the twenty-five year early retirement program:

(i) who has completed twenty-five or more years of credited service; and

(ii) who has attained age fifty-five; and

(iii) who, subject to the provisions of paragraph ten of subdivision d of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four, five and six of subdivision d of this section, or, for a New York city eligible member in active service on the enactment date of the twenty-five-year early retirement program who is an active or retired employee of the council of the city of New York, who has paid all additional member contributions pursuant to paragraph five of subdivision d of this section; and

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired, or, for a New York city eligible member in active service on the enactment date of the twenty-five-year early retirement program who is a retired employee of the council of the city of New York, who files an application for participation in the retirement plan described by this section; and

(v) who shall be a participant in the twenty-five-year early retirement program in active service at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement.

For a New York city eligible member in active service on the enactment date of the twenty-five-year early retirement program who is a retired employee of the council of the city of New York, however, there shall be no requirement of active service at the time of filing for retirement provided that such employee has met the other requirements of this

paragraph.

2. Physically taxing service retirement. A participant in the twenty-five-year early retirement program:

(i) who has completed twenty-five or more years of credited service in a physically taxing position (as defined in paragraph eleven of subdivision a of this section); and

(ii) who has attained age fifty; and

(iii) who, subject to the provisions of paragraph ten of subdivision d of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four, five and six of subdivision d of this section; and

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(v) who shall be a participant in the twenty-five-year early retirement program in active service at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement for participants in physically taxing positions.

3. Service retirement benefits. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph ten of subdivision d of this section, the early service retirement benefit for a participant in the twenty-five-year early retirement program who retires pursuant to either paragraph one or two of this subdivision shall be a retirement allowance equal to one-fiftieth of final average salary times years of credited service not in excess of thirty years. Credited service in excess of thirty years shall provide an additional retirement allowance equal to three-two hundredths of the final average salary for each year of credited service in excess of thirty years.

d. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five-year early retirement program shall contribute (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional percentage

or additional percentages of his or her compensation to the retirement system of which he or she is a member in accordance with the following schedule:

(i) (A) each such participant shall contribute an additional four and thirty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the starting date of the twenty-five-year early retirement program and prior to the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(B) each such participant shall contribute an additional two and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight and prior to the commencement date of the first payroll period which begins subsequent to the effective date of the chapter of the laws of two thousand one which amended this item (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(C) each such participant shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins subsequent to the effective date of the

chapter of the laws of two thousand one which added this item (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(ii) each such participant who is employed in a physically taxing position (as defined in paragraph eleven of subdivision a of this section) shall contribute, in addition to the additional member contributions required to be made at the percentage of compensation specified in subparagraph (i) of this paragraph for the credited service specified in such subparagraph (i), an additional one and ninety-eight one-hundredths percent of his or her compensation earned from that portion of such credited service which is rendered in a physically taxing position on and after the starting date of the twenty-five-year early retirement program (A) while such person is a participant in such program; and (B) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section; and (C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b.

(iii) notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, a person who becomes a participant in the twenty-five-year early retirement program provided by this section, who prior to such membership was subject to the provisions of section six hundred four-b of this article, shall not be required to pay the additional member contributions required by subparagraphs (i) and (ii) of this paragraph for any period of credited service before which such person became a participant pursuant to paragraph one or two of subdivision b of this section and during which such participant was subject to the provisions of such section six hundred four-b and no additional employee contributions were required of such member.

2. A participant in the twenty-five-year early retirement program shall contribute additional member contributions only until he or she

has thirty years of credited service.

3. (i) Commencing with the first full payroll period after each person becomes a participant in the twenty-five-year early retirement program, additional member contributions at the applicable rate or rates specified in paragraph one of this subdivision for the particular credited service being rendered shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

(ii) (A) Those portions of the additional member contributions required by paragraph one of this subdivision which are attributable to credited service rendered on and after the enactment date of the twenty-five-year early retirement program, and prior to the actual commencement of deductions from compensation pursuant to subparagraph (i) of this paragraph, by a person who becomes a participant pursuant to paragraph one of subdivision b of this section, shall be paid by deductions from the compensation of such participant pursuant to and in accordance with the provisions of item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from such participant's compensation are begun pursuant to subparagraph (i) of this paragraph, in addition to such deductions required by such subparagraph (i), there shall be another deduction of additional member contributions made from the compensation of such participant at one-third the applicable rate or rates at which deductions are being made pursuant to such subparagraph (i) (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph, provided, however, that deductions pursuant to this item (B) shall be made only during the period while such person is a participant after first becoming a participant pursuant to paragraph one of subdivision b of this section and before ceasing to be such a participant.

4. In addition to the member contributions required by section six hundred thirteen of this article, and the additional member contributions required pursuant to paragraph one of this subdivision, each participant in the twenty-five-year early retirement program who was not a member of either NYCERS or BERS on July first, nineteen hundred ninety-three shall, subject to the provisions of paragraph two of this subdivision, make retroactive additional member contributions to the retirement system of which he or she is a member in accordance with the following schedule:

(i) each such participant shall contribute an additional four and thirty-five one-hundredths percent of his or her compensation earned from all credited service rendered prior to the starting date of the twenty-five-year early retirement program (whether or not rendered in a physically taxing position or a New York city eligible position); and

(ii) each such participant who was employed in a physically taxing position (as defined in paragraph eleven of subdivision a of this section) shall contribute, in addition to the additional member contributions required to be made at the percentage of compensation specified in subparagraph (i) of this paragraph for the credited service specified in such subparagraph (i), an additional one and ninety-eight one-hundredths percent of his or her compensation earned from that portion of such credited service which was rendered in a physically taxing position prior to the starting date of the twenty-five-year early retirement program.

5. (i) Each participant in the twenty-five-year early retirement program shall be charged with a contribution deficiency consisting of:

(A) the total amounts of additional member contributions such person is required to make pursuant to paragraph one of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii), (iii) and (iv) of this paragraph; and

(B) the total amounts of retroactive additional member contributions such person is required to make pursuant to paragraph four of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of

subparagraphs (ii), (iii) and (iv) of this paragraph.

(ii) (A) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, the interest required to be paid on each such amount specified in items (A) and (B) of subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph six of this subdivision, no interest shall be due on any unpaid additional member contributions which are attributable to credited service rendered on or after the starting date of the twenty-five-year early retirement program, but prior to the enactment date of the twenty-five-year early retirement program by a person who becomes a participant pursuant to paragraph one of subdivision b of this section.

(iv) Except as otherwise provided in paragraph six of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

6. (i) (A) Should any person who, pursuant to paragraph twelve of this subdivision, has received a refund of the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph seven of this subdivision), including any interest paid on such employee portion, again become a participant in the twenty-five-year early retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such employee portion of additional member

contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph fourteen of this subdivision), as if such employee portion of additional contributions never had been paid.

(B) Any person who has his or her membership in one participating retirement system terminated without transferring such membership directly from such participating retirement system to the other participating retirement system, who has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time of the termination of such membership, who, pursuant to paragraph five of subdivision b of this section, thereafter again becomes a participant in the twenty-five-year early retirement program as a member of either participating retirement system without having received a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, shall have an appropriate amount included in such participant's contribution deficiency (including interest thereon as calculated in subparagraph (ii) of this paragraph) for any credited service for which such person borrowed and did not repay such employee portion of additional member contributions, as if such employee portion of additional member contributions never had been paid.

(ii) (A) Interest on the employee portion of a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such employee portion of additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such employee portion of additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

7. (i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid

into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-five-year early retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) All additional member contributions required for any period of credited service pursuant to paragraph one or four of this subdivision (and any interest paid thereon pursuant to paragraph five of this subdivision) which, pursuant to subparagraph (i) of this paragraph, are paid by a participant (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) into the contingent reserve fund of the retirement system of which such participant is a member (other than repayments of loans of additional member contributions pursuant to paragraph thirteen of this subdivision or amounts paid in satisfaction of a contribution deficiency calculated in accordance with paragraph six of this subdivision) shall be divided in the following manner:

(A) one-half of such additional member contributions (and any such interest paid thereon) shall be the employer contribution portion of such additional member contributions; and

(B) one-half of such additional member contributions (and any such interest paid thereon) shall be the employee portion of such additional member contributions, and shall be credited to the employee additional contributions account which shall be established for such participant within the contingent reserve fund of such retirement system.

(iii) No person, while he or she is a participant or otherwise, shall at any time be permitted (A) to borrow, pursuant to paragraph thirteen of this subdivision or any other provision, any of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of this paragraph, including any interest paid thereon) which has been paid into the contingent reserve fund of the retirement system; or (B) to receive a refund of any of such employer contribution portion pursuant to paragraph twelve of this subdivision or any other provision.

(iv) None of the employer contribution portion of a participant's additional member contributions (including any interest paid thereon) shall for any purpose (A) be deemed to be part of the employee portion of additional member contributions paid by a participant; or (B) be credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system.

(v) All repayments of loans of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision and all payments of the employee portion of additional member contributions in satisfaction of a contribution deficiency calculated in accordance with paragraph six of this subdivision which are paid by a participant to the contingent reserve fund of a participating retirement system (and any interest paid thereon) shall be part of the employee portion of such participant's additional member contributions and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such retirement system.

8. Where a person who was a participant in the twenty-five-year early retirement program as a member of one participating retirement system becomes such a participant as a member of the other participating retirement system:

(i) the employer contribution portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system; and

(ii) the employee portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) which remains credited to the employee additional contributions account established for such

person in the contingent reserve fund of such first retirement system that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system, and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such second retirement system.

9. A person who was a participant in the twenty-five-year early retirement program as a member of one participating retirement system, who becomes such a participant as a member of the other participating retirement system and who thereafter transfers his or her membership in such first retirement system directly to such second retirement system as such a participant shall be deemed to have the same unpaid balance of a loan of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest) as he or she had in such first retirement system at the time of such transfer of membership to the second retirement system.

10. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs five and six of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of the employee portion of additional member contributions pursuant to subparagraph (iii) of paragraph twelve of this subdivision, such participant's service retirement benefit calculated pursuant to paragraph three of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of

section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs five and six of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

11. The board of trustees of NYCERS and the retirement board of BERS may, consistent with the provisions of this subdivision, promulgate regulations for the payment of additional member contributions required by this subdivision, and any interest thereon, by participants in the twenty-five-year early retirement program (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

12. (i) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the twenty-five-year early retirement program who retires for disability pursuant to section six hundred five of this article shall be entitled, upon such retirement, to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for disability, together with interest thereon at the rate of five percent per annum, compounded annually.

(ii) Subject to the provisions of paragraph fourteen of this subdivision, upon the death of a participant in the twenty-five-year early retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, the employee portion

of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of his or her death, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Subject to the provisions of paragraph fourteen of this subdivision, a person (A) who is or was a participant in the twenty-five-year early retirement program; (B) who retires for service as a member of NYCERS or BERS pursuant to the applicable service retirement provisions of this article; (C) who is in active service on the effective date of retirement; (D) who is at least sixty-two years of age on the effective date of retirement; and (E) who was in active service for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of five percent per annum, compounded annually.

(iv) Subject to the provisions of paragraph fourteen of this subdivision, a person who ceases to be a participant in the twenty-five-year early retirement program as a member of a participating retirement system because he or she ceases to hold a New York city eligible position, who thereafter is employed in another position in public employment which is not a New York city eligible position, but which entitles such person to membership in another public retirement system which is maintained in whole or in part by the city or state of New York, and who thereafter transfers his or her membership in such participating retirement system directly to such second public retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this

subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such participating retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(v) Subject to the provisions of paragraph fourteen of this subdivision, any person who withdraws as a participant in the twenty-five-year early retirement program by filing a valid request for such withdrawal pursuant to subparagraph (ii) of paragraph three of subdivision b of this section shall, upon such withdrawal, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such withdrawal as a participant, together with interest thereon at the rate of five percent per annum, compounded annually.

(vi) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the twenty-five-year early retirement program who has been terminated from employment in a New York city eligible position for economic reasons by his or her public employer shall be entitled, upon such termination, to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such termination from employment, together with interest thereon at the rate of five percent per annum, compounded annually.

(vii) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the twenty-five-year early retirement program (A) who retires for service pursuant to paragraph two of subdivision c of this section; (B) who is in active service as a participant in such program on the effective date of retirement; (C)

who, on the effective date of retirement, is at least fifty-five years of age, but less than sixty-two years of age; and (D) who was in active service as a participant in such program for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of only that part of the employee portion of his or her additional member contributions paid pursuant to subparagraph (ii) of paragraph one of this subdivision and subparagraph (ii) of paragraph four of this subdivision (including any interest on such part of such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of five percent per annum, compounded annually, and shall not be entitled to a refund of any part of the employee portion of his or her additional member contributions paid pursuant to subparagraph (i) of paragraph one of this subdivision or subparagraph (i) of paragraph four of this subdivision (or any interest paid on such part of such employee portion of his or her additional member contributions), or any part of employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of paragraph seven of this subdivision) paid pursuant to subparagraph (i) or (ii) of paragraph one of this subdivision or subparagraph (i) or (ii) of paragraph four of this subdivision (or any interest paid on such employer contribution portion of his or her additional member contributions).

(viii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five-year early retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise; and (C) no person, while he or she is a participant or otherwise, shall at any time

be permitted to withdraw any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph seven of this subdivision), pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

13. A participant in the twenty-five-year early retirement program shall be permitted to borrow from the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph seven of this subdivision, including any interest paid thereon) which is credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system of which he or she is a member. The borrowing from such employee portion of additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of NYCERS and the retirement board of BERS may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such employee portion of additional member contributions, provided, however, that no person, while he or she is a participant or otherwise, shall at any time be permitted to borrow, pursuant to this paragraph or any other provision, any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph seven of this subdivision).

14. Whenever a person has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time he or she becomes entitled to a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of

such employee portion shall be the net amount of such employee portion, together with interest thereon in accordance with the provisions of paragraph twelve of this subdivision.

15. An eligible former participant, as defined in this paragraph, shall be entitled to a refund of the employee portion of his or her additional member contributions made pursuant to this subdivision which shall include any and all interest thereon at the rate of five percent per annum, compounded annually and such refund shall be payable, upon such participant's application pursuant to procedures promulgated in regulations of the board of trustees of the retirement system. An eligible former participant shall be a participant who is or was employed in the title supervisor (stations) in assignment level II in the New York city transit authority's stations department or the title transit manager, and who, on October first, two thousand six, was employed by the New York city transit authority in such title and who was a participant in the twenty-five year early retirement program prior to the starting date of the elimination of additional member contributions, as such date is defined in an election made pursuant to paragraph ten of subdivision e of section six hundred four-b of this article.

* NB There are 3 § 604-c's

*** § 604-c. Twenty-year retirement program for Triborough bridge and tunnel members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Triborough bridge and tunnel member" shall mean a member (as defined in subdivision e of section six hundred one of this article) who is employed by the Triborough bridge and tunnel authority as a bridge and tunnel officer, sergeant, or lieutenant in a non-managerial position.

2. "Twenty-year retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-year retirement program" shall mean the date of enactment of the act which added this section, as such date is certified pursuant to section forty-one of the legislative law.

4. "Participant in the twenty-year retirement program" shall mean any Triborough bridge and tunnel member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year retirement program, as applicable to him or her.

5. "Discontinued member" shall mean a participant in the twenty-year retirement program who, while he or she was a Triborough bridge and tunnel member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

6. "Administrative code" shall mean the administrative code of the city of New York.

b. Participation in twenty-year retirement program. 1. Subject to the provisions of paragraph six of this subdivision, any person who is a Triborough bridge and tunnel member on the starting date of the twenty-year retirement program and who, as such a bridge and tunnel member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-year retirement program by filing, within one hundred eighty days after the starting date of the twenty-year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a bridge and tunnel member on the date such application is filed.

2. Subject to the provisions of paragraph six of this subdivision, any person who becomes a Triborough bridge and tunnel member after the starting date of the twenty-year retirement program and who, as such a bridge and tunnel member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to

become a participant in the twenty-year retirement program by filing, within one hundred eighty days after becoming such a bridge and tunnel member, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a bridge and tunnel member on the date such application is filed.

3. Any election to be a participant in the twenty-year retirement program shall be irrevocable.

4. Each Triborough bridge and tunnel member who becomes subject to the provisions of this article on or after the starting date of the twenty-year retirement program shall become a participant in the twenty-year retirement program on the date he or she becomes such a bridge and tunnel member.

5. Where any participant in the twenty-year retirement program shall cease to be employed by the Triborough bridge and tunnel authority as a bridge and tunnel member, he or she shall cease to be such a participant and, during any period in which such person is not so employed, he or she shall not be a participant in the twenty-year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-year retirement program terminates service as a Triborough bridge and tunnel member and returns to such service as a Triborough bridge and tunnel member at a later date, he or she shall again become such a participant on that date.

c. Service retirement benefits. 1. A participant in the twenty-year retirement program:

- (i) who has completed twenty or more years of credited service; and
- (ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

- (iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(iv) who shall be a participant in the twenty-year retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, the early service retirement benefit for participants in the twenty-year retirement program who retire pursuant to paragraph one of this subdivision shall be a pension consisting of:

(A) an amount, on account of the required minimum period of service, equal to one-half of his or her final average salary; plus

(B) an amount of credited service, or fraction thereof, beyond such required minimum period of service equal to one and one-half percent of his or her final average salary.

(ii) The maximum pension computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall equal that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-year retirement program shall be entitled to receive a deferred vested benefit as provided in this subdivision if such participant:

(i) discontinues service as a Triborough bridge and tunnel member, other than by death or retirement; and

(ii) prior to such discontinuance, completed five but less than twenty years of credited service; and

(iii) has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three.

3. Such deferred vested benefit shall be a pension consisting of an amount equal to two and one-half percent of such discontinued member's final average salary, multiplied by the number of years of credited service.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-year retirement program in the rank of bridge and tunnel officer shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional five and fifty one-hundredths percent of his or her compensation and each participant in the twenty-year retirement program in the rank of sergeant or lieutenant shall contribute to the retirement system an additional six percent of his or her compensation earned from all allowable service as a Triborough bridge and tunnel member rendered on and after the date which is one hundred eighty days prior to the starting date of the twenty-year retirement program. A participant in the twenty-year retirement program shall contribute additional member contributions until the later of (i) the date as of which he or she has twenty years of credited service as a bridge and tunnel officer, or (ii) the third anniversary of the date that he or she last became a participant in the twenty-year retirement program.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such

participant for each and every payroll period.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon at the rate of five percent per annum, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system.

(ii) Except as provided in subparagraph (iii) of this paragraph, no interest shall be due on any such unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph eight of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

(iv) Notwithstanding any other provisions of this paragraph, no participant shall be charged interest for any period prior to March twenty-fifth, nineteen hundred ninety-eight with respect to any contributions owed with respect to any payroll period beginning prior to such date.

4. The head of a retirement system which includes participants in the twenty-year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest

thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participant's compensation).

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full before the effective date of retirement, that participant shall not be eligible to retire pursuant to subdivision c of this section.

6. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full before the date of discontinuance of service, that participant shall not be entitled to a deferred vested benefit pursuant to subdivision d of this section.

7. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to paragraph eight of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7-a. Notwithstanding paragraph six or seven of this subdivision, where a deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a Triborough bridge and tunnel member and such participant retires prior to July first, two thousand eleven, such participant may elect to be covered by this paragraph. Such participant shall be entitled to the benefits provided in subdivision c of this section provided that participant authorizes the retirement system to deduct from such benefits an amount which will result in the deficiency, plus associated interest to date of final payment, being paid in full no later than July first, two thousand eleven or such earlier date as agreed to by the participant. Such amount will be deducted in equal installments on a

monthly basis. Nothing in this paragraph shall prevent the participant from making a partial payment of the amount of the deficiency at the time of retirement so as to reduce the monthly payment nor to make a lump sum payment equal to the amount of the total unpaid balance at any time during the period of repayment.

8. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) Should a participant in the twenty-year retirement program who has rendered less than fifteen years of allowable service as a Triborough bridge and tunnel member cease to hold a position as a Triborough bridge and tunnel member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Except as provided in subparagraph (ii) of this paragraph, no member, while he or she is a participant or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

9. A member who has made the additional contributions specified by this subdivision may borrow a portion of such contributions, pursuant to the provisions of section six hundred thirteen-b of this article.

* NB There are 3 § 604-c's

§ 604-d. Age fifty-seven retirement program for certain New York city members. a. The terms "NYCERS", "BERS", "administrative code", "BERS rules and regulations", "New York city eligible position", "New York city eligible member", "physically taxing position", "participating retirement system" and "education service", as used in this section, shall have the meanings set forth in paragraphs one, two, three, four, five, six, eleven, twelve and thirteen, respectively, of subdivision a of section six hundred four-c of this article unless a different meaning is plainly required by the context.

b. The following terms as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Age fifty-seven retirement program" shall mean all the terms and conditions of this section.

2. "Enactment date of the age fifty-seven retirement program" shall mean the date this section takes effect.

3. "Participant in the age fifty-seven retirement program" shall mean any New York city eligible member who, under the applicable provisions of subdivision c of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the age fifty-seven retirement program, as applicable to him or her.

c. Participation in age fifty-seven retirement program. 1. Subject to the provisions of paragraphs five and six of this subdivision, any person (i) other than a person who is deemed pursuant to paragraph six of subdivision b of section six hundred four-c of this article to be employed for the purposes of paragraph one or two of subdivision b of such section six hundred four-c in a New York city eligible position on the enactment date of the twenty-five-year early retirement program, or other than a person who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age, (ii) who becomes a New York city eligible member in active service after the enactment date of the age

fifty-seven retirement program and (iii) who, as such an eligible member or otherwise, last became subject to the provisions of this article prior to such enactment date, may elect to become a participant in the age fifty-seven retirement program by filing, within ninety days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided that he or she is a New York city eligible member in active service on the date such application is filed.

2. Any election to be a participant in the age fifty-seven retirement program shall be irrevocable.

3. Each person (i) other than a person who is deemed pursuant to paragraph six of subdivision b of section six hundred four-c of this article to be employed for the purposes of paragraph one or two of subdivision b of such section six hundred four-c in a New York city eligible position on the enactment date of the twenty-five-year early retirement program, or other than a person who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age, (ii) who becomes a New York city eligible member in active service after the enactment date of the age fifty-seven retirement program and (iii) who, as such an eligible member or otherwise, becomes subject to the provisions of this article after the enactment date of the age fifty-seven retirement program shall become a participant in the age fifty-seven retirement program on the date he or she becomes a New York city eligible member in active service.

3-a. Notwithstanding any other provision of this subdivision or any other provision of law to the contrary, no member who becomes subject to the provisions of this article on or after the effective date of this paragraph shall be a participant in the age fifty-seven retirement program.

4. Where any participant in the age fifty-seven retirement program shall cease to hold a New York city eligible position, he or she shall

cease to be such a participant and, during any period in which such person is not a New York city eligible member, he or she shall not be a participant in the age fifty-seven retirement program.

5. Where any participant in the age fifty-seven retirement program terminates service in a New York city eligible position and returns to service in a New York city eligible position at a later date and again becomes a New York city eligible member, he or she shall again become such a participant upon becoming a New York city eligible member.

6. Notwithstanding any other provision of law to the contrary, and except as provided in paragraph three of this subdivision, any person who is eligible to elect to become a participant in the age fifty-seven retirement program pursuant to paragraph one of this subdivision for the full ninety-day period provided for in such paragraph one, and who fails to timely file a duly executed application for such participation with the appropriate retirement system shall not thereafter be eligible to elect pursuant to such paragraph one to become a participant in such program.

d. 1. Non-physically taxing service retirement. A participant in the age fifty-seven retirement program:

- (i) who has completed five or more years of credited service; and
- (ii) who has attained age fifty-seven; and
- (iii) who, subject to the provisions of paragraph nine of subdivision f of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision f of this section; and
- (iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and
- (v) who shall be a participant in the age fifty-seven retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement.

2. Physically taxing service retirement. A participant in the age

fifty-seven retirement program:

(i) who has completed twenty-five or more years of credited service in a physically taxing position (as defined in paragraph eleven of subdivision a of section six hundred four-c of this article); and

(ii) who has attained age fifty; and

(iii) who, subject to the provisions of paragraph nine of subdivision f of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision f of this section; and

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(v) who shall be a participant in the age fifty-seven retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement for participants in physically taxing positions.

3. Service retirement benefits. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph nine of subdivision f of this section, the early service retirement benefit for a participant in the age fifty-seven retirement program who retires pursuant to either paragraph one or two of this subdivision shall be calculated as follows:

(i) for a participant with less than twenty years of credited service, such benefit shall be a retirement allowance equal to one-sixtieth of final average salary times years of credited service; or

(ii) for a participant with twenty years or more of credited service, such benefit shall be a retirement allowance equal to one-fiftieth of final average salary times years of credited service not in excess of thirty years. Credited service in excess of thirty years shall provide an additional retirement allowance equal to three-two hundredths of the final average salary for each year of credited service in excess of thirty years.

e. Vesting. 1. A participant in the age fifty-seven retirement program:

(i) who, as a participant in such retirement program, discontinues

city-service (as defined in subdivision three of section 13-101 of the administrative code) or education service (as defined in paragraph thirteen of subdivision a of section six hundred four-c of this article), other than by death or retirement; and

(ii) who, prior to such discontinuance, completed five or more years of credited service; and

(iii) who, subject to the provisions of paragraph ten of subdivision f of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision f of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

3. Subject to the provisions of paragraph ten of subdivision f of this section, such deferred benefit shall be a retirement allowance computed in accordance with the applicable provisions of subparagraph (i) or (ii) of paragraph three of subdivision d of this section.

f. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the age fifty-seven retirement program shall contribute (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional percentage or additional percentages of his or her compensation to the retirement system of which he or she is a member in accordance with the following schedule:

(i) (A) each such participant shall contribute an additional four and thirty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered prior to the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or three of subdivision c of this section (whether or not rendered in a New York city eligible position, and whether rendered before or after the enactment date of the age fifty-seven retirement program); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c (whether or not rendered in a New York city eligible position); and

(B) each such participant shall contribute an additional two and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight and prior to the commencement date of the first payroll period which begins subsequent to the effective date of the chapter of the laws of two thousand one which amended this item (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or three of subdivision c of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c (whether or not rendered in a New York city eligible position); and

(C) each such participant shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins subsequent to the effective date of the chapter of the laws of two thousand one which added this item (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or three of

subdivision c of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c (whether or not rendered in New York city eligible position); and

(ii) each such participant who is employed in a physically taxing position (as defined in paragraph eleven of subdivision a of section six hundred four-c of this article) shall contribute, in addition to the additional member contributions required to be made at the percentage of compensation specified in subparagraph (i) of this paragraph for the credited service specified in such subparagraph (i), an additional one and ninety-eight one-hundredths percent of his or her compensation earned from that portion of such credited service which is rendered in a physically taxing position (A) while such person is a participant in such program; and (B) before such person becomes such a participant pursuant to paragraph one or three of subdivision c of this section (whether rendered before or after the enactment date of the age fifty-seven retirement program); and (C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c.

(iii) notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, a person who becomes a participant in the age fifty-seven early retirement program provided by this section, who prior to such membership was subject to the provisions of section six hundred four-b of this article, shall not be required to pay the additional member contributions required by subparagraphs (i) and (ii) of this paragraph for any period of credited service before which such person became a participant pursuant to paragraph one or three of subdivision c of this section and during which such participant was subject to the provisions of such section six hundred four-b and no additional employee contributions were required of such member.

(iv) notwithstanding the provisions of subparagraph (ii) of this paragraph, a participant holding the title of carpenter, supervisor carpenter, ship carpenter, supervisor ship carpenter, rigger, dockbuilder, supervisor dockbuilder and general supervisor dockbuilder who is a participant in the age fifty-seven retirement program and whose age and allowable service are such that he or she could not possibly be

able to accumulate at least twenty-five years of service by the time he or she reaches age fifty-seven, shall not be required to make the additional member contribution pursuant to subparagraph (ii) of this paragraph. Any participant in the titles listed in this subparagraph who has made additional member contributions pursuant to subparagraph (ii) of this paragraph prior to the effective date of the chapter of the laws of two thousand twenty-three that added this subparagraph shall receive a refund of the employee portion of such contributions plus interest provided that their age and allowable service are such that he or she could not possibly be able to accumulate at least twenty-five years of service by the time he or she reaches age fifty-seven.

2. A participant in the age fifty-seven retirement program shall contribute additional member contributions only until he or she has thirty years of credited service.

3. Commencing with the first full payroll period after each person becomes a participant in the age fifty-seven retirement program, additional member contributions at the applicable rate or rates specified in paragraph one of this subdivision for the particular credited service being rendered shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the age fifty-seven retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraph one of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted

from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) (A) Should any person who, pursuant to paragraph twelve of this subdivision, has received a refund of the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision), including any interest paid on such employee portion, again become a participant in the age fifty-seven retirement program pursuant to paragraph five of subdivision c of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such employee portion of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph fourteen of this subdivision), as if such employee portion of additional member contributions never had been paid.

(B) Any person who has his or her membership in one participating retirement system terminated without transferring such membership directly from such participating retirement system to the other participating retirement system, who has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time of the termination of such membership, who, pursuant to paragraph five of subdivision c of this section, thereafter again becomes a participant in the age fifty-seven retirement program as a member of either

participating retirement system without having received a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, shall have an appropriate amount included in such participant's contribution deficiency (including interest thereon as calculated in subparagraph (ii) of this paragraph) for any credited service for which such person borrowed and did not repay such employee portion of additional member contributions, as if such employee portion of additional member contributions never had been paid.

(ii) (A) Interest on the employee portion of a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such employee portion of additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such employee portion of additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. (i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the age fifty-seven retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) All additional member contributions required for any period of credited service pursuant to paragraph one of this subdivision (and any interest paid thereon pursuant to paragraph four of this subdivision) which, pursuant to subparagraph (i) of this paragraph, are paid by a participant (subject to the applicable provisions of subdivision d of

section six hundred thirteen of this article) into the contingent reserve fund of the retirement system of which such participant is a member (other than repayments of loans of additional member contributions pursuant to paragraph thirteen of this subdivision or amounts paid in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision) shall be divided in the following manner:

(A) one-half of such additional member contributions (and any such interest paid thereon) shall be the employer contribution portion of such additional member contributions; and

(B) one-half of such additional member contributions (and any such interest paid thereon) shall be the employee portion of such additional member contributions, and shall be credited to the employee additional contributions account which shall be established for such participant within the contingent reserve fund of such retirement system.

(iii) No person, while he or she is a participant or otherwise, shall at any time be permitted (A) to borrow, pursuant to paragraph thirteen of this subdivision or any other provision, any of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of this paragraph, including any interest paid thereon) which has been paid into the contingent reserve fund of the retirement system; or (B) to receive a refund of any of such employer contribution portion pursuant to paragraph twelve of this subdivision or any other provision.

(iv) None of the employer contribution portion of a participant's additional member contributions (including any interest paid thereon) shall for any purpose (A) be deemed to be part of the employee portion of additional member contributions paid by a participant; or (B) be credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system.

(v) All repayments of loans of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision and all payments of the employee portion of additional member contributions in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision which are paid by a participant to the contingent reserve fund of a participating retirement

system (and any interest paid thereon) shall be part of the employee portion of such participant's additional member contributions and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such retirement system.

7. Where a person who was a participant in the age fifty-seven retirement program as a member of one participating retirement system becomes such a participant as a member of the other participating retirement system:

(i) the employer contribution portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system; and

(ii) the employee portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such first retirement system that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system, and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such second retirement system.

8. A person who was a participant in the age fifty-seven retirement program as a member of one participating retirement system, who becomes

such a participant as a member of the other participating retirement system and who thereafter transfers his or her membership in such first retirement system directly to such second retirement system as such a participant shall be deemed to have the same unpaid balance of a loan of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest) as he or she had in such first retirement system at the time of such transfer of membership to the second retirement system.

9. Where a participant who is otherwise eligible for service retirement pursuant to subdivision d of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision d of this section, provided, however, that where such participant is not entitled to a refund of the employee portion of additional member contributions pursuant to subparagraph (iv) of paragraph twelve of this subdivision, such participant's service retirement benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

10. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision e of this section did not, prior to the date of discontinuance of service, pay the entire amount of

a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision e of this section, provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision e shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

11. The board of trustees of NYCERS and the retirement board of BERS may, consistent with the provisions of this subdivision, promulgate regulations for the payment of additional member contributions required by this subdivision, and any interest thereon, by participants in the age fifty-seven retirement program (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

12. (i) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-seven retirement program as a member of a participating retirement system, who has rendered less than ten years of credited service, who ceases to hold a New York city eligible position and who is not employed in any position which entitles such person to membership in such same participating retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions

account established for such person in the contingent reserve fund of the retirement system of which such person is a member at the time he or she last ceases to be a participant, together with interest thereon at the rate of five percent per annum, compounded annually.

(ii) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-seven retirement program who retires for disability pursuant to section six hundred five of this article shall be entitled, upon such retirement, to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for disability, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Subject to the provisions of paragraph fourteen of this subdivision, upon the death of a participant in the age fifty-seven retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of his or her death, together with interest thereon at the rate of five percent per annum, compounded annually.

(iv) Subject to the provisions of paragraph fourteen of this subdivision, a person (A) who is or was a participant in the age fifty-seven retirement program; (B) who retires for service as a member of NYCERS or BERS pursuant to the applicable service retirement provisions of this article; (C) who is in active service on the effective date of retirement; (D) who is at least sixty-two years of age on the effective date of retirement; and (E) who was in active service

for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of five percent per annum, compounded annually.

(v) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-seven retirement program (A) who retires for service pursuant to paragraph two of subdivision d of this section; (B) who is in active service as a participant in such program on the effective date of retirement; (C) who, on the effective date of retirement, is at least fifty-seven years of age, but less than sixty-two years of age; and (D) who was in active service as a participant in such program for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of only that part of the employee portion of his or her additional member contributions paid pursuant to subparagraph (ii) of paragraph one of this subdivision (including any interest on such part of such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is member at the time of such retirement for service, together with interest thereon at the rate of five percent per annum, compounded annually, and shall not be entitled to a refund of any part of the employee portion of his or her additional member contributions paid pursuant to subparagraph (i) of paragraph one of this subdivision (or any interest paid thereon), or any part of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision) paid pursuant to subparagraph (i) or (ii) of paragraph one of this subdivision (or any

interest paid thereon).

(vi) Subject to the provisions of paragraph fourteen of this subdivision, a person who ceases to be a participant in the age fifty-seven retirement program as a member of a participating retirement system because he or she ceases to hold a New York city eligible position, who thereafter is employed in another position in public employment which is not a New York city eligible position, but which entitles such person to membership in another public retirement system which is maintained in whole or in part by the city or state of New York, and who thereafter transfers his or her membership in such participating retirement system directly to such second public retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such participating retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(vii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the age fifty-seven retirement program shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise; and (C) no person, while he or she is a participant or otherwise, shall at any time be permitted to withdraw any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision), pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

13. A participant in the age fifty-seven retirement program shall be permitted to borrow from the employee portion of his or her additional

member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision, including any interest paid thereon) which is credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system of which he or she is a member. The borrowing from such employee portion of additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of NYCERS and the retirement board of BERS may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such employee portion of additional member contributions, provided, however, that no person, while he or she is a participant or otherwise, shall at any time be permitted to borrow pursuant to this paragraph or any other provision, any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision).

14. Whenever a person has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time he or she becomes entitled to a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such employee portion shall be the net amount of such employee portion, together with interest thereon in accordance with the provisions of paragraph twelve of this subdivision.

15. An eligible former participant, as defined in this paragraph, shall be entitled to a refund of the employee portion of his or her additional member contributions made pursuant to this subdivision which shall include any and all interest thereon at the rate of five percent

per annum, compounded annually and such refund shall be payable, upon such participant's application pursuant to procedures promulgated in regulations of the board of trustees of the retirement system. An eligible former participant shall be a participant who is or was employed in the title supervisor (stations) in assignment level II in the New York city transit authority's stations department or the title transit manager, and who, on October first, two thousand six, was employed by the New York city transit authority in such title and who was a participant in the age fifty-seven retirement program prior to the starting date of the elimination of additional member contributions, as such date is defined in an election made pursuant to paragraph ten of subdivision e of section six hundred four-b of this article.

*** § 604-e. Twenty-five year retirement program for dispatcher members.**

a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Dispatcher member" shall mean a member (as defined in subdivision e of section six hundred one of this article) who is employed by the city of New York as a fire alarm dispatcher, a supervising fire alarm dispatcher, level one, a supervising fire alarm dispatcher, level two, director of dispatch operations, or deputy director of dispatch operations.

2. "Twenty-five year retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-five year retirement program" shall mean that date of enactment of this section.

4. "Participant in the twenty-five year retirement program" shall mean any dispatcher member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year retirement program, as applicable to him or her.

5. "Discontinued member" shall mean a participant in the twenty-five year retirement program who, while he or she was a dispatcher member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Allowable service as a dispatcher member" shall mean (i) service as a dispatcher member and all service in the following civil service titles: chief fire alarm dispatcher, administrative fire alarm dispatcher, bus operator (transit), train dispatcher (transit), firefighter, police officer, correction officer, fire marshal, probation officer, police communications technician, supervising police communications technician, principal police communications technician, police administrative aide, senior police administrative aide, emergency medical technician, advanced emergency medical technician, emergency medical service specialist level I, emergency medical specialist level II, fire prevention inspector, fire protection inspector, senior fire prevention inspector, principal fire prevention inspector, associate fire protection inspector, county detective, detective (NYPD), detective investigator, senior detective investigator, deputy sheriff, senior deputy sheriff, inspector of fire alarm boxes, radio operator, radio repair technician, supervisor of radio repair operations, taxi and limousine inspector, senior taxi and limousine inspector, triborough bridge and tunnel officer; and (ii) a member of the retirement system who is employed by the city of New York in a title whose duties require the supervision of employees whose civil service title is included in subparagraph (i) of this paragraph.

b. Participation in twenty-five year retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is a dispatcher member on the starting date of the twenty-five year retirement program and who, as such a dispatcher member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the

twenty-five year retirement program by filing, within one hundred eighty days after the starting date of the twenty-five year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a dispatcher member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes a dispatcher member after the starting date of the twenty-five year retirement program and who, as such a dispatcher member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after becoming such a dispatcher member, a duly executed application for such participation with the retirement system for which such person is a member, provided he or she is such a dispatcher member on the date such application is filed.

3. Each dispatcher member, other than a dispatcher member subject to paragraph one or two of this subdivision, who becomes subject to the provisions of this article on or after the starting date of the twenty-five year retirement program shall become a participant in the twenty-five year retirement program on the date he or she becomes such a dispatcher member. Provided, however, a person subject to this paragraph, and who has exceeded age thirty upon employment as a dispatcher member, shall be exempt from participation in the improved twenty-five year retirement program if such person elects not to participate by filing a duly executed form with the retirement system within one hundred eighty days of becoming a dispatcher member.

4. Any election to be a participant in the twenty-five year retirement program shall be irrevocable.

5. Where any participant in the twenty-five year retirement program shall cease to be employed by the city of New York as a dispatcher member, he or she shall cease to be such a participant and, during any period in which such person is not so employed, he or she shall not be a participant in the twenty-five year retirement program and shall not be

eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year retirement program terminates service as a dispatcher member and returns to such service as a dispatcher member at a later date, he or she shall again become such a participant on that date.

7. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the twenty-five year retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. 1. A participant in the twenty-five year retirement program:

(i) who has completed twenty-five or more years of allowable service as a dispatcher member; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time, not less than thirty days subsequent to the execution and filing thereof, he or she desires to be retired; and

(iv) who shall be a participant in the twenty-five year retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-five year retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of:

an amount, on account of the required minimum period of service, equal to fifty percent of his or her final average salary; plus

an amount on account of allowable service as a dispatcher member, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final salary for such allowable service as a dispatcher member during the period from completion of twenty-five years of allowable service as a dispatcher member to the date of retirement but not to exceed more than five years of additional service as a dispatcher member.

d. Vesting. 1. A participant in the twenty-five year retirement program:

(i) who discontinues service as such a participant, other than by death or retirement; and

(ii) who prior to such discontinuance, completed five but less than twenty-five years of allowable service as a dispatcher member; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall

become payable at age sixty-three.

3. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of an amount equal to two percent of such discontinued member's final average salary, multiplied by the number of years of allowable service as a dispatcher member.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional six percent of his or her compensation earned from (i) all allowable service, as a participant in the twenty-five year retirement program, rendered on or after the starting date of the twenty-five year retirement program, and (ii) all allowable service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this subdivision shall be in lieu of additional member contributions required by subdivision (d) of section six hundred four-c of this chapter as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member making additional contributions pursuant to this section shall be required to make contributions pursuant to such subdivision (d) of section six hundred four-c of this chapter.

2. A participant in the twenty-five year retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year retirement program, or (ii) the date on which he or she completes thirty years of allowable service as a dispatcher member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable

provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the twenty-five year retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of this subdivision, has received a refund of his or her additional member contribution including any interest paid on such contributions, again become a participant in the twenty-five year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited

service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph twelve of this subdivision), as if such additional member contributions never had been paid.

(ii) (A) Interest on a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) The amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

8. The head of a retirement system which includes participants in the twenty-five year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participant's compensation).

9. Subject to the provisions of paragraphs six and seven of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or

estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

10. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-five year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) Should a participant in the twenty-five year retirement program who has rendered less than fifteen years of credited service cease to hold a position as a dispatcher member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

11. A participant in the twenty-five year retirement program shall be permitted to borrow from his or her additional member contributions (including any interest paid thereon) which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from

such additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

12. Whenever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph (ii).

* NB There are 2 § 604-e's

*** § 604-e. Twenty-five year retirement program for EMT members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "EMT member" shall mean a member of the New York city employees' retirement system who is employed by the city of New York or by the New York city health and hospitals corporation in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or in a title whose duties require the supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law).

2. "Twenty-five year retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-five year retirement program" shall mean that date of enactment of this section.

4. "Participant in the twenty-five year retirement program" shall mean any EMT member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year retirement program, as applicable to him or her.

5. "Discontinued member" shall mean a participant in the twenty-five year retirement program who, while he or she was an EMT member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Allowable service as an EMT member" shall mean (i) all service as an EMT member; and (ii) all service while employed by the city of New York or by the New York city health and hospitals corporation in the title motor vehicle operator.

b. Participation in twenty-five year retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is an EMT member on the starting date of the twenty-five year retirement program and who, as such an EMT member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after the starting date of the twenty-five year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such an EMT member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes an EMT member after the starting date of the twenty-five year retirement program and who, as such an EMT member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after becoming such an EMT member, a duly executed application for such participation with the retirement system for which such person is a member, provided he or she is such an EMT member on the date such application is filed.

3. Each EMT member, other than an EMT member subject to paragraph one or two of this subdivision, who becomes subject to the provisions of this article on or after the starting date of the twenty-five year retirement program shall become a participant in the twenty-five year retirement program on the date he or she becomes such an EMT member. Provided, however, a person subject to this paragraph, and who has exceeded age twenty-five upon employment as an EMT member, shall be exempt from participation in the improved twenty-five year retirement program if such person elects not to participate by filing a duly executed form with the retirement system within one hundred eighty days of becoming an EMT member.

4. Any election to be a participant in the twenty-five year retirement program shall be irrevocable.

5. Where any participant in the twenty-five year retirement program shall cease to be employed as an EMT member, he or she shall cease to be such a participant and, during any period in which such person is not so employed, he or she shall not be a participant in the twenty-five year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year retirement program terminates service as an EMT member and returns to such service as an EMT member at a later date, he or she shall again become such a participant on that date.

7. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the twenty-five year retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. 1. A participant in the twenty-five year retirement program:

(i) who has completed twenty-five or more years of allowable service as an EMT member; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time, not less than thirty days subsequent to the execution and filing thereof, he or she desires to be retired; and

(iv) who shall be a participant in the twenty-five year retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-five year retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of:

an amount, on account of the required minimum period of service, equal to fifty percent of his or her final average salary; plus

an amount on account of allowable service as an EMT member, or fraction thereof, beyond such required minimum period of service equal

to two percent of his or her final salary for such allowable service as an EMT member during the period from completion of twenty-five years of allowable service as an EMT member to the date of retirement but not to exceed more than five years of additional service as an EMT member.

d. Vesting. 1. A participant in the twenty-five year retirement program:

(i) who discontinues service as such a participant, other than by death or retirement; and

(ii) who prior to such discontinuance, completed five but less than twenty-five years of allowable service as an EMT member; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three.

3. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of an amount equal to two percent of such discontinued member's final average salary, multiplied by the number of years of allowable service as an EMT member.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional six and twenty-five one-hundredths percent of his or her compensation earned from (i) all allowable service, as a participant in the twenty-five year retirement program, rendered on or after the starting date of the twenty-five year retirement program, and (ii) all allowable service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this subdivision shall be in lieu of additional member contributions required by subdivision d of section six hundred four-c of this chapter as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member making additional contributions pursuant to this section shall be required to make contributions pursuant to such subdivision d of section six hundred four-c of this chapter.

2. A participant in the twenty-five year retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year retirement program, or (ii) the date on which he or she completes thirty years of allowable service as an EMT member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the twenty-five year retirement program

shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of this subdivision, has received a refund of his or her additional member contribution including any interest paid on such contributions, again become a participant in the twenty-five year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph twelve of this subdivision), as if such additional member contributions never had been paid.

(ii) (A) Interest on a participant's additional member contributions

included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) The amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to

paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

8. The head of a retirement system which includes participants in the twenty-five year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participant's compensation).

9. Subject to the provisions of paragraphs six and seven of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

10. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for

any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-five year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) Should a participant in the twenty-five year retirement program who has rendered less than fifteen years of credited service cease to hold a position as an EMT member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

11. A participant in the twenty-five year retirement program shall be permitted to borrow from his or her additional member contributions (including any interest paid thereon) which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the

provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

12. Whenever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph (ii).

* NB There are 2 § 604-e's

*** § 604-f. Twenty-five year retirement program for deputy sheriff members.** a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Deputy sheriff" shall mean a member (as defined in subdivision e of section six hundred one of this article) who is employed by the city of New York as a deputy city sheriff level one, deputy city sheriff level two, supervising deputy sheriff or administrative sheriff.

2. "Twenty-five year retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-five year retirement program" shall mean the date of enactment of this section, as such date is certified pursuant to section forty-one of the legislative law.

4. "Participant in the twenty-five year retirement program" shall mean any deputy sheriff member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year

retirement program, as applicable to him or her.

5. "Discontinued member" shall mean a participant in the twenty-five year retirement program who, while he or she was a deputy sheriff member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

6. "Administrative code" shall mean the administrative code of the city of New York.

b. Participation in twenty-five year retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is deputy sheriff member on the starting date of the twenty-five year retirement program and who, as such a deputy sheriff member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after the starting date of the twenty-five year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a deputy sheriff member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes a deputy sheriff member after the starting date of the twenty-five year retirement program and who, as such a deputy sheriff member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after becoming such a deputy sheriff member, a duly executed application for such participation with the retirement system for which such person is a member, provided he or she is such a deputy sheriff member on the date such application is filed.

3. Any election to be a participant in the twenty-five year retirement program shall be irrevocable.

4. Each deputy sheriff member who becomes subject to the provisions of this article on or after the starting date of the twenty-five year retirement program shall become a participant in the twenty-five year retirement program on the date he or she becomes such a deputy sheriff member.

5. Where any participant in the twenty-five year retirement program shall cease to be employed by the city of New York as a deputy sheriff member, he or she shall cease to be such a participant and, during any period in which such person is not so employed, he or she shall not be a participant in the twenty-five year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year retirement program terminates service as a deputy sheriff member and returns to such service as a deputy sheriff member at a later date, he or she shall again become such a participant on that date.

7. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the twenty-five year retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. 1. A participant in the twenty-five year retirement program:

(i) who has completed twenty-five or more years of credited service; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time, not less than thirty days subsequent to the execution and filing

thereof, he or she desires to be retired; and

(iv) who shall be a participant in the twenty-five year retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-five year retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of:

(A) an amount, on account of the required minimum period of service, equal to fifty-five percent of his or her final average salary; plus

(B) an amount on account of credited service, or fraction thereof, beyond such required minimum period of service equal to one and seven-tenths percent of his or her final salary;

(ii) The maximum retirement allowance computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall equal that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-five year retirement program:

(i) who discontinues service as such a participant, other than by death or retirement; and

(ii) who prior to such discontinuance, completed five but less than twenty-five years of credited service; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three.

3. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of an amount equal to two and two-tenths percent of such discontinued member's final average salary, multiplied by the number of years of credited service.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional six and three-quarters percent of his or her compensation earned from (i) all credited service, as a participant in the twenty-five year retirement program, rendered on or after the starting date of the twenty-five year retirement program, and (ii) all credited service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this subdivision shall be in lieu of additional member contributions required by (i) subdivision d of section six hundred four-c of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, or (ii) subdivision f of section six hundred four-d of this article, and no member making contributions pursuant to this section shall be required to make contributions pursuant to either such subdivision d of section six hundred four-c of this article, or such subdivision f of section six hundred four-d of this article.

2. A participant in the twenty-five year retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year retirement program, or (ii) the date on which he or she completes thirty years of credited service as a deputy sheriff member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the twenty-five year retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member

contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of this subdivision, has received a refund of his or her additional member contributions including any interest paid on such contributions, again become a participant in the twenty-five year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to this subdivision), as if such additional member contributions never had been paid.

(ii)(A) Interest on a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this

article) which is actuarially equivalent to the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision.

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, he or she nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision.

8. The head of a retirement system which includes participants in the twenty-five year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participant's compensation).

9. Subject to the provisions of paragraphs six and seven of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

10. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-five year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) Should a participant in the twenty-five year retirement program who has rendered less than fifteen years of credited service cease to hold a position as a deputy sheriff member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

11. No member of a public retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon by the participant) which are subject to this subdivision.

* NB There are 2 § 604-f's

*** § 604-f. Twenty-five year retirement program for special officer,**

parking control specialist, school safety agent, campus peace officer or New York city taxi and limousine inspector members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Special officers" shall mean all peace officers who are special officers of any rank employed by a mayoral agency of the city of New York or the New York city health and hospitals corporation or the city of New York housing authority, and shall include all persons who are employed by the city of New York in the title urban park ranger or associate urban park ranger.

2. "Parking control specialist" shall mean a peace officer employed by the New York city department of transportation as a parking control specialist.

3. "School safety agent" shall mean a peace officer employed as a school safety agent of any rank employed by the New York city police department or the board of education of the city of New York.

4. "Campus peace officer" shall mean a peace officer employed as a campus peace officer of any rank employed by the city university of New York.

5. "Taxi and limousine inspector" shall mean a peace officer of any rank employed by the New York city taxi and limousine commission.

6. "Twenty-five year retirement program" shall mean all the terms and conditions of this section.

7. "Starting date of the twenty-five year retirement program" shall mean that date of enactment of this section; provided that, for persons who are employed by the city of New York in the title urban park ranger and associate urban park ranger, "starting date of the twenty-five year retirement program" shall mean the effective date of the amendment to paragraph one of this subdivision made in section six of the chapter of

the laws of two thousand three which amended this paragraph.

8. "Participant in the twenty-five year retirement program" shall mean a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year retirement program, as applicable to him or her.

9. "Discontinued member" shall mean a participant in the twenty-five year retirement program who, while he or she was a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

10. "Administrative code" shall mean the administrative code of the city of New York.

11. "Allowable service" as a special officer, parking control specialist, school safety agent, campus peace officer and taxi and limousine inspector member shall mean all service while employed by the city of New York or by the New York city health and hospitals corporation, the New York city board of education, the city university of New York or the New York city taxi and limousine commission or the city of New York housing authority in a title whose duties are those of a peace officer under the criminal procedure law.

b. Participation in twenty-five year retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member on the starting date of the twenty-five year retirement program and who, as such a member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after the starting date of the

twenty-five year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member after the starting date of the twenty-five year retirement program and who, as such a member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after becoming such a member, a duly executed application for such participation with the retirement system for which such person is a member, provided he or she is such a member on the date such application is filed.

3. Each special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member, other than such a member subject to paragraph one or two of this subdivision, who becomes subject to the provisions of this article on or after the starting date of the twenty-five year retirement program shall become a participant in the twenty-five year retirement program on the date he or she becomes such a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member. Provided, however, a person subject to this paragraph, who has exceeded age thirty upon employment as such a member, shall be exempt from participation in the improved twenty-five year retirement program if such person elects not to participate by filing a duly executed form with the retirement system within one hundred eighty days of becoming such a member.

4. Any election to be a participant in the twenty-five year retirement program shall be irrevocable.

5. Where any participant in the twenty-five year retirement program

shall cease to be employed as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member, he or she shall cease to be such a participant and, during any period in which such person is not so employed, he or she shall not be a participant in the twenty-five year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year retirement program terminates service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member and returns to such service as such a member at a later date, he or she shall again become such a participant on that date.

7. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the twenty-five year retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. 1. A participant in the twenty-five year retirement program:

(i) who has completed twenty-five or more years of allowable service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time, not less than thirty days subsequent to the execution and filing thereof, he or she desires to be retired; and

(iv) who shall be a participant in the twenty-five year retirement program at the time so specified for his or her retirement; shall be

retired pursuant to the provisions of this section affording early service retirement.

2. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-five year retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of: an amount, on account of the required minimum period of service, equal to fifty percent of his or her final average salary; plus an amount on account of allowable service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final salary for such allowable service as such a member during the period from completion of twenty-five years of allowable service as such a member to the date of retirement but not to exceed more than five years of additional service as such a member.

d. Vesting. 1. A participant in the twenty-five year retirement program:

(i) who discontinues service as such a participant, other than by death or retirement; and

(ii) who prior to such discontinuance, completed five but less than twenty-five years of allowable service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest, if any, required by subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three.

3. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of any amount equal to two percent of such discontinued member's final average salary, multiplied by the number of years of allowable service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year retirement program shall contribute to the retirement system of which he or she is a member, subject to the applicable provisions of subdivision d of section six hundred thirteen of this article, an additional six and twenty-five hundredths percent of his or her compensation earned from (i) all allowable service, as a participant in the twenty-five year retirement program, rendered on or after the starting date of the twenty-five year retirement program, and (ii) all allowable service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this subdivision shall be in lieu of additional member contributions required by subdivision d of section six hundred four-c of this article as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member making additional contributions pursuant to this section shall be required to make contributions pursuant to such subdivision d of section

six hundred four-c of this article.

2. A participant in the twenty-five year retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year retirement program, or (ii) the date on which he or she completes thirty years of allowable service as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of subdivision d of section six hundred thirteen of this article, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the twenty-five year retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement

system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of this subdivision, has received a refund of his or her additional member contribution including any interest paid on such contributions, again become a participant in the twenty-five year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph twelve of this subdivision), as if such additional member contributions never had been paid.

(ii) (A) Interest on a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision including accrued interest on such loan, that

participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by a life annuity, calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article, which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision including accrued interest on such loan.

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision including accrued interest on such loan, that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision including accrued interest on such loan.

8. The head of a retirement system which includes participants in the twenty-five year retirement program in its membership may, consistent

with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants including the dedication of such contributions and any interest thereon, from the participant's compensation.

9. Subject to the provisions of paragraphs six and seven of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

10. (i) Such additional member contributions, and any interest thereon, shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-five year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) Should a participant in the twenty-five year retirement program who has rendered less than fifteen years of credited service cease to hold a position as a special officer, parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member or for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision, together with any interest thereon paid to the retirement system, may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

11. A participant in the twenty-five year retirement program shall be permitted to borrow from his or her additional member contributions including any interest paid thereon which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

12. Whenever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, the amount of such unpaid loan balance including accrued interest shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph (ii).

* NB There are 2 § 604-f's

§ 604-g. Twenty-five year/age fifty retirement program for automotive members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Automotive member" shall mean a member of the retirement system employed by the mayoral and non-mayoral agencies of the city of New York as a senior automotive service worker, an automotive service worker, an auto body worker, an auto mechanic, a marine maintenance mechanic, an oil burner specialist, a supervisor of mechanics (mechanical equipment), senior stationary engineer, stationary engineer, auto mechanic (diesel), auto electrician, auto machinist, machinist or machinist helper.

2. "Twenty-five year/age fifty retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-five year/age fifty retirement program" shall mean, with respect to supervisors of mechanics (mechanical equipment), the effective date of this section as such date is certified pursuant to section forty-one of the legislative law, and shall mean December twelfth, two thousand one with respect to all other automotive members.

4. "Participant in the twenty-five year/age fifty retirement program" shall mean any automotive member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year/age fifty retirement program, as applicable to him or her.

5. "Discontinued member" shall mean a participant in the twenty-five year/age fifty retirement program who, while he or she was an automotive member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

6. "Administrative code" shall mean the administrative code of the city of New York.

b. Participation in twenty-five year/age fifty retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is an automotive member on the starting date of the twenty-five year/age fifty retirement program and who, as such an automotive member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year/age fifty retirement program by filing, within two hundred seventy days after the starting date of the twenty-five year/age fifty retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such an automotive member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes an automotive member after the starting date of the twenty-five year/age fifty retirement program and who, as such an automotive member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year/age fifty retirement program by filing within two hundred seventy days after becoming such an automotive member, a duly executed application for such participation with the retirement system for which such person is a member provided he or she is such an automotive member on the date such application is filed.

3. Any election to be a participant in the twenty-five year/age fifty retirement program shall be irrevocable.

4. Each automotive member who becomes subject to the provisions of this article on or after the starting date of the twenty-five year/age fifty retirement program shall become a participant in the twenty-five year/age fifty retirement program on the date he or she becomes such an automotive member.

5. Where any participant in the twenty-five year/age fifty retirement program shall cease to be employed by the city of New York as an automotive member, he or she shall cease to be such a participant and

during any period in which such person is not so employed, he or she shall not be a participant in the twenty-five year/age fifty retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year/age fifty retirement program terminates service as an automotive member and returns to such service as an automotive member at a later date he or she shall again become such a participant on that date.

7. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the twenty-five year/age fifty retirement program pursuant to paragraph one or two of this subdivision for the full two hundred seventy day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. 1. A participant in the twenty-five year/age fifty retirement program:

(i) who has attained age fifty; and

(ii) who has completed twenty-five or more years of credited service; and

(iii) who has paid before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time, not less than thirty days subsequent to the execution and filing thereof, he or she desires to be retired; and

(v) who shall be a participant in the twenty-five year/age fifty retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, and

subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-five year/age fifty retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of:

(A) an amount on account of the required minimum period of service equal to fifty percent of his or her final average salary; plus

(B) an amount on account of each additional year of credited service, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final salary;

(ii) the maximum retirement allowance computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall equal that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-five year/age fifty retirement program:

(i) who discontinues service as such a participant, other than by death or retirement; and

(ii) who prior to such discontinuance, completed five but less than twenty-five years of credited service; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if

such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three.

3. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of an amount equal to two percent of such discontinued member's final average salary, multiplied by the number of years of credited service.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year/age fifty retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional four and eighty-three one-hundredths percent of his or her compensation earned from (i) all credited service, as a participant in the twenty-five year/age fifty retirement program, rendered on or after the date which is one hundred eighty days prior to the starting date of the twenty-five year/age fifty retirement program, and (ii) all credited service after such person ceases to be a participant but before he or she again becomes a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this subdivision shall be in lieu of additional member contributions required by subdivision d of section six hundred four-c of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member making additional contributions pursuant to this section shall be required to make contributions pursuant to such subdivision d of section six hundred four-c of this article.

2. A participant in the twenty-five year/age fifty retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year/age fifty retirement program, or (ii) the date on which he or she completes thirty years of credited service as an automotive member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year/age fifty retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the twenty-five year/age fifty retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii)(A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of of this subdivision, has received a refund of his or her additional member contributions including any interest paid on such contributions, again become a participant in the twenty-five year/age

fifty retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph twelve of this subdivision), as if such additional member contributions never had been paid.

(ii) (A) Interest on a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her

additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

8. The head of a retirement system which includes participants in the twenty-five year/age fifty retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participant's compensation).

9. Subject to the provisions of paragraphs six and seven of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article

or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

10. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-five year/age fifty retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) Should a participant in the twenty-five year/age fifty retirement program who has rendered less than five years of credited service cease to hold a position as an automotive member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year/age fifty retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

11. A participant in the twenty-five year/age fifty retirement program shall be permitted to borrow from his or her additional member

contributions (including any interest paid thereon) which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

12. Whenever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph (ii).

§ 604-h. Twenty-five year retirement program for police communications members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Police communications member" shall mean a member of the retirement system employed by the police department as a police communications technician, a supervising police communications technician or a principal police communications technician.

2. "Twenty-five year retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-five year retirement program" shall mean the date of enactment of this section, as such date is certified pursuant to section forty-one of the legislative law.

4. "Participant in the twenty-five year retirement program" shall mean any police communications member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year retirement program, as applicable to him or her.

5. "Discontinued member" shall mean a participant in the twenty-five year retirement program who, while he or she was a police communications member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

6. "Administrative code" shall mean the administrative code of the city of New York.

b. Participation in twenty-five year retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is a police communications member on the starting date of the twenty-five year retirement program and who, as such a police communications member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after the starting date of the twenty-five year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a police communications member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes a police communications member after the starting date of the twenty-five year retirement program and who, as such a police communications member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by

filing, within one hundred eighty days after becoming such a police communications member, a duly executed application for such participation with the retirement system for which such person is a member, provided he or she is such a police communications member on the date such application is filed.

3. Any election to be a participant in the twenty-five year retirement program shall be irrevocable.

4. Each police communications member who becomes subject to the provisions of this article on or after the starting date of the twenty-five year retirement program shall become a participant in the twenty-five year retirement program on the date he or she becomes such a police communications member. Provided, however, a person subject to this paragraph who has exceeded age thirty upon employment as such a member shall be exempt from participation in the twenty-five year retirement program if such person elects not to participate by filing a duly executed form with the retirement system within one hundred eighty days of becoming such a member.

5. Where any participant in the twenty-five year retirement program shall cease to be employed by the city of New York as a police communications member, he or she shall cease to be such a participant and, during any period in which such person is not so employed, he or she shall not be a participant in the twenty-five year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year retirement program terminates service as a police communications member and returns to such service as a police communications member at a later date, he or she shall again become such a participant on that date.

7. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the twenty-five year retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for

in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. 1. A participant in the twenty-five year retirement program:

(i) who has completed twenty-five or more years of credited service; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which he or she is a member an application for service retirement setting forth at that time, not less than thirty days subsequent to the execution and filing thereof, he or she desires to be retired; and

(iv) who shall be a participant in the twenty-five year retirement program at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. (i) Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-five year retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of:

(A) an amount, on account of the required minimum period of service, equal to fifty percent of his or her final average salary; plus

(B) an amount on account of credited service, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final salary;

(ii) The maximum retirement allowance computed without optional modification payable pursuant to subparagraph (i) of this paragraph shall equal that payable upon completion of thirty years of service.

d. Vesting. 1. A participant in the twenty-five year retirement program:

(i) who discontinues service as such a participant, other than by death or retirement; and

(ii) who prior to such discontinuance, completed five but less than twenty-five years of credited service; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iv) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three.

3. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of an amount equal to two percent of such discontinued member's final average salary, multiplied by the number of years of credited service.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional six percent of his or

her compensation earned from (i) all credited service, as a participant in the twenty-five year retirement program, rendered on or after the starting date of the twenty-five year retirement program, and (ii) all credited service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this subdivision shall be in lieu of additional member contributions required by subdivision d of section six hundred four-c of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member making contributions pursuant to this section shall be required to make contributions pursuant to such subdivision d of section six hundred four-c of this article.

2. A participant in the twenty-five year retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year retirement program, or (ii) the date on which he or she completes thirty years of credited service as a police communications member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the twenty-five year retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount

specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of this subdivision, has received a refund of his or her additional member contributions including any interest paid on such contributions, again become a participant in the twenty-five year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph twelve of this subdivision), as if such additional member contributions never had been paid.

(ii)(A) Interest on a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent

per annum, compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

8. The head of a retirement system which includes participants in the twenty-five year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participant's compensation).

9. Subject to the provisions of paragraphs six and seven of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

10. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the twenty-five year retirement program or otherwise, except that, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

(ii) Should a participant in the twenty-five year retirement program

who has rendered less than five years of credited service cease to hold a position as a police communications member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

11. A participant in the twenty-five year retirement program shall be permitted to borrow from his or her additional member contributions (including any interest paid thereon) which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

12. Whenever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of

paragraph ten of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph (ii).

§ 604-i. Age fifty-five retirement program for New York city teachers and certain other members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "TRS" shall mean the New York city teachers' retirement system.
2. "BERS" shall mean the board of education retirement system of the city of New York.
3. "Administrative code" shall mean the administrative code of the city of New York.
4. "BERS rules and regulations" shall mean the rules and regulations for the government, management and control of BERS adopted pursuant to section twenty-five hundred seventy-five of the education law.
5. "New York city eligible position" shall mean:
 - (i) with respect to members of TRS, all positions as a teacher (as defined in subdivision seven of section 13-501 of the administrative code), and shall not include any position covered by section 13-563 of the administrative code; or
 - (ii) with respect to members of BERS, the following positions in education service: head nurses, head nurses (BOE), supervisors of nurses, staff nurses, registered nurses (BOE), public health nurses, pediatric nurse associates, supervising therapists, senior occupational therapists, senior occupational therapists (BOE), occupational therapists, occupational therapists (BOE), senior physical therapists, senior physical therapists (BOE), physical therapists, physical therapists (BOE), substitute vocational assistants, non-annualized adult

education teachers, non-annualized adult education assistant coordinators, non-annualized adult education coordinators, directors of drug and alcohol programs, assistant directors of drug and alcohol programs, sign language interpreters, teachers of military science, senior army, navy, air force, aerospace, marine corps or coast guard instructors, army, navy, air force, aerospace, marine corps or coast guard instructors, youth development specialists and the following positions represented by the recognized teacher organization for collective bargaining purposes: education administrators, education officers, associate education officers, education analysts and associate education analysts.

6. "New York city eligible member" shall mean a member of TRS or BERS who is subject to the provisions of this article and who is employed in a New York city eligible position.

7. "Age fifty-five retirement program" shall mean all the terms and conditions of this section.

8. "Starting date of the age fifty-five retirement program" shall mean the commencement date of the first payroll period which begins after the enactment date of the age fifty-five retirement program.

9. "Enactment date of the age fifty-five retirement program" shall mean the date this section takes effect.

10. "Participant in the age fifty-five retirement program" shall mean any New York city eligible member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the age fifty-five retirement program, as applicable to him or her.

11. "Twenty-five-year participant in the age fifty-five retirement program" shall mean a participant in the age fifty-five retirement program who first became such a participant pursuant to paragraph one or two of subdivision b of this section.

12. "Twenty-seven-year participant in the age fifty-five retirement program" shall mean a participant in the age fifty-five retirement program who first became such a participant pursuant to paragraph four or five of subdivision b of this section.

13. "Participating retirement system" shall mean TRS or BERS.

14. "Education service" shall mean service as a paid official or employee of the board of education of the city of New York or the New York city school construction authority, and allowable pursuant to the applicable provisions which govern the service credit of a member of BERS.

b. Participation in age fifty-five retirement program. 1. Subject to the provisions of paragraphs seven, eight and nine of this subdivision, any person who is employed in a New York city eligible position on the enactment date of the age fifty-five retirement program, and who is a New York city eligible member in active service on such enactment date, may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after the enactment date of the age fifty-five retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

2. Subject to the provisions of paragraphs seven, eight and nine of this subdivision, any person: (i) who is employed in a New York city eligible position on the enactment date of the age fifty-five retirement program, or who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age; and (ii) who becomes a New York city eligible member in active service after such enactment date, may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date

such application is filed.

3. (i) Except as provided in subparagraph (ii) of this paragraph, any election to be a participant in the age fifty-five retirement program shall be irrevocable.

(ii) Notwithstanding any other provision of law to the contrary, any participant in the age fifty-five retirement program who became such a participant pursuant to paragraph one or two of this subdivision, and whose age and amount of credited service (which amount of credited service shall, for the limited purposes only of this subparagraph, include service rendered previous to becoming a member which is not yet credited, but for which such person is or may become eligible to obtain credit pursuant to section six hundred nine of this article) at the time of first becoming such a participant are such that he or she could not possibly be able to accumulate a total of at least twenty-five years of credited service by the time he or she reaches age sixty-two, assuming such person were to earn a full year of credited service in each and every year until he or she becomes sixty-two years of age (whether or not such person actually intends to earn such amounts of credit), may withdraw from the age fifty-five retirement program by filing, within three hundred sixty-five days after first becoming such a participant, a written request to withdraw from such program with the retirement system of which such person is a member.

4. Subject to the provisions of paragraphs seven and nine of this subdivision, any person (i) other than a person who is deemed pursuant to paragraph eight of this subdivision to be employed for the purposes of paragraph one or two of this subdivision in a New York city eligible position on the enactment date of the age fifty-five retirement program, or other than a person who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age, (ii) who becomes a New York city eligible member in active service after the enactment date of the age fifty-five retirement program and (iii) who, as such an eligible member or otherwise, last became subject to the provisions of this article prior to such enactment date, may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty

days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided that he or she is a New York city eligible member in active service on the date such application is filed. Any election pursuant to this paragraph to be a participant in the age fifty-five retirement program shall be irrevocable.

5. Each person (i) other than a person who is deemed pursuant to paragraph eight of this subdivision to be employed for the purposes of paragraph one or two of this subdivision in a New York city eligible position on the enactment date of the age fifty-five retirement program, or other than a person who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age, (ii) who becomes a New York city eligible member in active service after the enactment date of the age fifty-five retirement program and (iii) who, as such an eligible member or otherwise, becomes subject to the provisions of this article after the enactment date of the age fifty-five retirement program shall become a participant in the age fifty-five retirement program on the date he or she becomes a New York city eligible member in active service.

5-a. Notwithstanding any other provision of this subdivision or any other provision of law to the contrary, no member who becomes subject to the provisions of this article on or after the effective date of this paragraph shall be a participant in the age fifty-five retirement program.

6. Where any participant in the age fifty-five retirement program shall cease to hold a New York city eligible position, he or she shall cease to be such a participant and, during any period in which such person is not a New York city eligible member, he or she shall not be a participant in the age fifty-five retirement program.

7. Where any participant in the age fifty-five retirement program terminates service in a New York city eligible position and returns to service in a New York city eligible position at a later date and again

becomes a New York city eligible member, he or she shall again become such a participant upon becoming a New York city eligible member.

8. For the limited purposes only of determining eligibility to elect to become a participant in the age fifty-five retirement program pursuant to paragraph one or two of this subdivision, a person shall be deemed to be employed in a New York city eligible position on the enactment date of the age fifty-five retirement program if, on such enactment date, such person is: (i) in active service in a New York city eligible position; (ii) on a leave of absence without pay from a New York city eligible position approved by his or her public employer, and such person returns to active service in a New York city eligible position after such enactment date and within five years after beginning such unpaid leave of absence; or (iii) on suspension without pay from a New York city eligible position, and such person is reinstated from such suspension to active service in such an eligible position after such enactment date by his or her public employer.

9. Notwithstanding any other provision of law to the contrary, and except as provided in paragraph five of this subdivision, any person who is eligible to elect to become a participant in the age fifty-five retirement program pursuant to paragraph one, two or four of this subdivision for the full one hundred eighty-day period provided for in such applicable paragraph, and who fails to timely file a duly executed application for such participation with the appropriate retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement. 1. A twenty-five-year participant in the age fifty-five retirement program:

- (i) who has completed twenty-five or more years of credited service;
- (ii) who has attained age fifty-five;
- (iii) who, subject to the provisions of paragraph nine of subdivision e of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section;
- (iv) who files with the retirement system of which he or she is a

member an application for service retirement setting forth at what time he or she desires to be retired; and

(v) who shall be a participant in the age fifty-five retirement program in active service at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement, provided, however, that no such participant who otherwise meets the retirement eligibility requirements of this paragraph shall be permitted to retire pursuant to this paragraph prior to June thirtieth, two thousand eight.

2. A twenty-seven-year participant in the age fifty-five retirement program:

(i) who has completed twenty-seven or more years of credited service;

(ii) who has attained age fifty-five;

(iii) who, subject to the provisions of paragraph nine of subdivision e of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section;

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(v) who shall be a participant in the age fifty-five retirement program in active service at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement.

3. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph nine of subdivision e of this section, the early service retirement benefit for a participant in the age fifty-five retirement program who retires pursuant to either paragraph one or two of this subdivision shall be a retirement allowance equal to one-fiftieth of final average salary times years of credited service not in excess of thirty years. Credited service in excess of thirty years shall provide an additional retirement allowance equal to three-two hundredths of the final average salary for each year of credited service in excess of thirty years.

d. Vesting. 1. (i) A twenty-five-year participant in the age fifty-five retirement program:

(A) who, on or after June thirtieth, two thousand eight, as such a participant in such retirement program, discontinues service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) or discontinues education service (as defined in paragraph fourteen of subdivision a of this section), other than by death or retirement;

(B) who, prior to such discontinuance, completed twenty-five or more years of credited service;

(C) who, subject to the provisions of paragraph ten of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section; and

(D) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this paragraph.

(ii) (A) Upon such discontinuance under the conditions and in compliance with the provisions of subparagraph (i) of this paragraph, such deferred vested benefit shall vest automatically.

(B) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

(iii) Subject to the provisions of paragraph ten of subdivision e of this section, such deferred benefit shall be a retirement allowance computed in accordance with the applicable provisions of paragraph three of subdivision c of this section.

2. (i) A twenty-seven-year participant in the age fifty-five retirement program:

(A) who, as such a participant in such retirement program, discontinues service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) or discontinues education service (as defined in paragraph fourteen of subdivision a of this

section), other than by death or retirement; and

(B) who, prior to such discontinuance, completed twenty-seven or more years of credited service; and

(C) who, subject to the provisions of paragraph ten of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section; and

(D) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this paragraph.

(ii) (A) Upon such discontinuance under the conditions and in compliance with the provisions of subparagraph (i) of this paragraph, such deferred vested benefit shall vest automatically.

(B) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

(iii) Subject to the provisions of paragraph ten of subdivision e of this section, such deferred benefit shall be a retirement allowance computed in accordance with the applicable provisions of paragraph three of subdivision c of this section.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the age fifty-five retirement program shall contribute (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional percentage of his or her compensation to the retirement system of which he or she is a member in accordance with the following applicable provisions:

(i) each twenty-five-year participant in the age fifty-five retirement program shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service rendered on and after the starting date of the age fifty-five retirement program

(A) while such person is a participant in such program; and

(B) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and

(C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph seven of subdivision b of this section (whether or not rendered in a New York city eligible position); and

(ii) each twenty-seven-year participant in the age fifty-five retirement program shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service rendered

(A) while such person is a participant in such program; and

(B) before such person becomes such a participant pursuant to paragraph four or five of subdivision b of this section (whether or not rendered in a New York city eligible position, and whether rendered before or after the starting date of the age fifty-five retirement program); and

(C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph seven of subdivision b of this section (whether or not rendered in a New York city eligible position).

2. A twenty-five-year participant in the age fifty-five retirement program (as defined in paragraph eleven of subdivision a of this section) shall contribute additional member contributions until the later of (i) June twenty-ninth, two thousand eight, or (ii) the date on which he or she has completed twenty-five years of credited service. A twenty-seven-year participant in the age fifty-five retirement program shall contribute additional member contributions only until he or she has completed twenty-seven years of credited service; provided, however, that a twenty-seven-year participant in the age fifty-five retirement program who becomes subject to the provisions of this article after the effective date of the chapter of the laws of two thousand nine that amended this paragraph shall contribute additional member contributions for all years of credited service as provided in subparagraph (ii) of paragraph one of this subdivision.

3. (i) Commencing with the first full payroll period after each person becomes a participant in the age fifty-five retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

(ii)(A) Those portions of the additional member contributions required by paragraph one of this subdivision which are attributable to credited service rendered on and after the starting date of the age fifty-five retirement program, and prior to the actual commencement of deductions from compensation pursuant to subparagraph (i) of this paragraph, by a person who becomes a participant pursuant to paragraph one of subdivision b of this section, shall be paid by deductions from the compensation of such participant pursuant to and in accordance with the provisions of item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from such participant's compensation are begun pursuant to subparagraph (i) of this paragraph, in addition to such deductions required by subparagraph (i) of this paragraph, there shall be another deduction of additional member contributions made from the compensation of such participant at one-third the rate at which deductions are being made pursuant to subparagraph (i) of this paragraph (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph, provided, however, that deductions pursuant to this item shall be made only during the period while such person is a participant after first becoming a participant pursuant to paragraph one of subdivision b of this section and before ceasing to be such a participant.

4. (i) Each participant in the age fifty-five retirement program shall be charged with a contribution deficiency consisting of the total amount of additional member contributions such person is required to make

pursuant to paragraph one of this subdivision which is not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii)(A) Subject to the provisions of subparagraph (iii) of this paragraph, the interest required to be paid on the amount specified in subparagraph (i) of this paragraph shall accrue from the end of each of the payroll periods for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) (A) Should any person who, pursuant to paragraph twelve of this subdivision, has received a refund of the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision), including any interest paid on such employee portion, again become a participant in the age fifty-five retirement program pursuant to paragraph seven of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such employee portion of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph fourteen of this subdivision), as if such employee portion of additional member contributions never had been paid.

(B) Any person who has his or her membership in one participating retirement system terminated without transferring such membership directly from such participating retirement system to the other participating retirement system, who has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time of the termination of such membership, who, pursuant to paragraph seven of subdivision b of this section, thereafter again becomes a participant in the age fifty-five retirement program as a member of either participating retirement system without having received a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, shall have an appropriate amount included in such participant's contribution deficiency (including interest thereon as calculated in subparagraph (ii) of this paragraph) for any credited service for which such person borrowed and did not repay such employee portion of additional member contributions, as if such employee portion of additional member contributions never had been paid.

(ii)(A) Interest on the employee portion of a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such employee portion of additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such employee portion of additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. (i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while he or she is a participant in the age fifty-five retirement program or

otherwise.

(ii) All additional member contributions required for any period of credited service pursuant to paragraph one of this subdivision (and any interest paid thereon pursuant to paragraph four of this subdivision) which, pursuant to subparagraph (i) of this paragraph, are paid by a participant (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) into the contingent reserve fund of the retirement system of which such participant is a member (other than repayments of loans of additional member contributions pursuant to paragraph thirteen of this subdivision or amounts paid in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision) shall be divided in the following manner:

(A) one-half of such additional member contributions (and any such interest paid thereon) shall be the employer contribution portion of such additional member contributions; and

(B) one-half of such additional member contributions (and any such interest paid thereon) shall be the employee portion of such additional member contributions, and shall be credited to the employee additional contributions account which shall be established for such participant within the contingent reserve fund of such retirement system.

(iii) No person, while he or she is a participant or otherwise, shall at any time be permitted:

(A) to borrow, pursuant to paragraph thirteen of this subdivision or any other provision, any of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of this paragraph, including any interest paid thereon) which has been paid into the contingent reserve fund of the retirement system; or

(B) to receive a refund of any of such employer contribution portion pursuant to paragraph twelve of this subdivision or any other provision.

(iv) None of the employer contribution portion of a participant's additional member contributions (including any interest paid thereon) shall for any purpose:

(A) be deemed to be part of the employee portion of additional member contributions paid by a participant; or

(B) be credited to the employee additional contributions account

established for such participant in the contingent reserve fund of the retirement system.

(v) All repayments of loans of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision and all payments of the employee portion of additional member contributions in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision which are paid by a participant to the contingent reserve fund of a participating retirement system (and any interest paid thereon) shall be part of the employee portion of such participant's additional member contributions and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such retirement system.

7. Where a person who was a participant in the age fifty-five retirement program as a member of one participating retirement system becomes such a participant as a member of the other participating retirement system:

(i) the employer contribution portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system; and

(ii) the employee portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such first retirement system that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer

contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system, and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such second retirement system.

8. A person who was a participant in the age fifty-five retirement program as a member of one participating retirement system, who becomes such a participant as a member of the other participating retirement system and who thereafter transfers his or her membership in such first retirement system directly to such second retirement system as such a participant shall be deemed to have the same unpaid balance of a loan of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest) as he or she had in such first retirement system at the time of such transfer of membership to the second retirement system.

9. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of the employee portion of additional member contributions pursuant to subparagraph (iii) of paragraph twelve of this subdivision, such participant's service retirement benefit calculated pursuant to paragraph three of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

10. Where a participant in the age fifty-five retirement program who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to the otherwise applicable provisions of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

11. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision, promulgate regulations for the payment of additional member contributions required by this subdivision, and any interest thereon, by participants in the age fifty-five retirement program (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

12. (i) Subject to the provisions of paragraph fourteen of this

subdivision, a participant in the age fifty-five retirement program who retires for disability pursuant to section six hundred five of this article shall be entitled, upon such retirement, to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for disability, together with interest thereon at the rate of five percent per annum, compounded annually.

(ii) Subject to the provisions of paragraph fourteen of this subdivision, upon the death of a participant in the age fifty-five retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of his or her death, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Subject to the provisions of paragraph fourteen of this subdivision, a person:

(A) who is or was a participant in the age fifty-five retirement program;

(B) who retires for service as a member of TRS or BERS pursuant to the applicable service retirement provisions of this article;

(C) who is in active service on the effective date of retirement;

(D) who is at least sixty-two years of age on the effective date of retirement; and

(E) who was in active service for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be

entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of five percent per annum, compounded annually.

(iv) Subject to the provisions of paragraph fourteen of this subdivision, a person who ceases to be a participant in the age fifty-five retirement program as a member of a participating retirement system because he or she ceases to hold a New York city eligible position, who thereafter is employed in another position in public employment which is not a New York city eligible position, but which entitles such person to membership in another public retirement system which is maintained in whole or in part by the city or state of New York, and who thereafter transfers his or her membership in such participating retirement system directly to such second public retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such participating retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(v) Subject to the provisions of paragraph fourteen of this subdivision, any person who withdraws as a participant in the age fifty-five retirement program by filing a valid request for such withdrawal pursuant to subparagraph (ii) of paragraph three of subdivision b of this section shall, upon such withdrawal, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such withdrawal as a

participant, together with interest thereon at the rate of five percent per annum, compounded annually.

(vi) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-five retirement program who has been terminated from employment in a New York city eligible position for economic reasons by his or her public employer shall be entitled, upon such termination, to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such termination from employment, together with interest thereon at the rate of five percent per annum, compounded annually.

(vii) Notwithstanding any other provision of law to the contrary:

(A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph;

(B) no person, while he or she is a participant in the age fifty-five retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise; and

(C) no person, while he or she is a participant or otherwise, shall at any time be permitted to withdraw any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision), pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

13. A participant in the age fifty-five retirement program shall be permitted to borrow from the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision, including any interest paid thereon) which is credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system of which he or she is a member.

The borrowing from such employee portion of additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in the applicable provisions of section six hundred thirteen-a of this article (for TRS members) or section six hundred thirteen-b of this article (for BERS members) which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision and the applicable provisions of section six hundred thirteen-a of this article (for TRS) or section six hundred thirteen-b of this article (for BERS) as made applicable to this subdivision, promulgate regulations governing the borrowing of such employee portion of additional member contributions, provided, however, that no person, while he or she is a participant or otherwise, shall at any time be permitted to borrow, pursuant to this paragraph or any other provision, any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision).

14. Whenever a person has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time he or she becomes entitled to a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such employee portion shall be the net amount of such employee portion, together with interest thereon in accordance with the provisions of paragraph eleven of this subdivision.

§ 604-j. Twenty-five year retirement program for fire protection inspector members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Fire protection inspector member" shall mean a member who is employed by the city of New York or by the New York city fire department in a title whose duties are those of a fire protection inspector or associate fire protection inspector; or in a title whose duties require the supervision of employees whose duties are those of a fire protection inspector or associate fire protection inspector.

2. "Twenty-five year retirement program" shall mean all the terms and conditions of this section.

3. "Starting date of the twenty-five year retirement program" shall mean the effective date of this section.

4. "Participant in the twenty-five year retirement program" shall mean any fire protection inspector member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits, and privileges and is subject to the obligations of the twenty-five year retirement program, as applicable to them.

5. "Discontinued member" shall mean a participant in the twenty-five year retirement program who, while they were a fire protection inspector member, discontinued service as such a member and has a right to a deferred vested benefit under subdivision d of this section.

6. "Administrative code" shall mean the administrative code of the city of New York.

7. "Allowable service as a fire protection inspector member" shall mean all service as a fire protection inspector member.

b. Participation in the twenty-five year retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is a fire protection inspector member on the starting date of the twenty-five year retirement program and who, as such a fire protection inspector member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement

program by filing, within one hundred eighty days after the starting date of the twenty-five year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided they are such a fire protection inspector member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes a fire protection inspector member after the starting date of the twenty-five year retirement program and who, as such a fire protection inspector member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after becoming such a fire protection inspector member, a duly executed application for such participation with the retirement system for which such person is a member, provided they are such a fire protection inspector member on the date such application is filed.

3. Each fire protection inspector member, other than a fire protection inspector member subject to paragraph one or two of this subdivision, who becomes subject to the provisions of this article on or after the starting date of the twenty-five year retirement program shall become a participant in the twenty-five year retirement program on the date they become such a fire protection inspector member. Provided, however, a person subject to this paragraph, and who has exceeded age twenty-five upon employment as a fire protection inspector member, shall be exempt from participation in the improved twenty-five year retirement program if such person elects not to participate by filing a duly executed form with the retirement system within one hundred eighty days of becoming a fire protection inspector member.

4. Any election to be a participant in the twenty-five year retirement program shall be irrevocable.

5. Where any participant in the twenty-five year retirement program shall cease to be employed as a fire protection inspector member, they shall cease to be such a participant and, during any period in which

such person is not so employed, they shall not be a participant in the twenty-five year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year retirement program terminates service as a fire protection inspector member and returns to such service as a fire protection inspector member at a later date, they shall again become such a participant on that date.

7. Notwithstanding any other provision of the law to the contrary, any person who is eligible to elect to become a participant in the twenty-five year retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty day period provided for in such applicable paragraph and who fails to timely file a duly executed application for such participation with the retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement benefits. 1. A participant in the twenty-five year retirement program:

(i) who has completed twenty-five or more years of allowable service as a fire protection inspector member; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

(iii) who files with the retirement system of which they are a member an application for service retirement setting forth at what time, not less than thirty days subsequent to the execution and filing thereof, their desire to be retired; and

(iv) who shall be a participant in the twenty-five year retirement program at the time so specified for their retirement; shall be retired pursuant to the provisions of this section affording early service retirement.

2. Notwithstanding the provisions of subdivision a-1 of section six hundred three of this article, or any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision

e of this section, the early service retirement benefit for participants in the twenty-five year retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of:

- (i) an amount, on account of the required minimum period of service, equal to fifty percent of their final average salary; plus

- (ii) an amount on account of allowable service as a fire protection inspector member, or fraction thereof, beyond such required minimum period of service equal to two percent of their final salary for such allowable service as a fire protection inspector member during the period from completion of twenty-five years of allowable service as a fire protection inspector member to the date of retirement but not to exceed more than five years of additional service as a fire protection inspector member.

d. Vesting. 1. A participant in the twenty-five year retirement program:

- (i) who discontinues service as such a participant, other than by death or retirement; and

- (ii) who prior to such discontinuance, completed five but less than twenty-five years of allowable service as a fire protection inspector member; and

- (iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

- (iv) who does not withdraw in whole or in part their accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this subdivision.

2. (i) Upon such discontinuance under the conditions and in compliance with the provisions of paragraph one of this subdivision, such deferred vested benefit shall vest automatically.

- (ii) In the case of a participant who is not a New York city revised

plan member, such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of an amount equal to two percent of such discontinued member's final average salary, multiplied by the number of years of credited service.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year retirement program shall contribute to the retirement system of which they are a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article and subject to the limitation provided for in paragraph two of this subdivision) an additional six and twenty-five one-hundredths percent of their compensation earned from (i) all allowable service, as a participant in the twenty-five year retirement program, rendered on or after the starting date of the twenty-five year retirement program, and (ii) all allowable service after such person ceases to be a participant, but before they again become a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this section shall be in lieu of additional member contributions required by subdivision d of section six hundred four-c of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member making additional contributions pursuant to this section shall be required to make contributions pursuant to such subdivision d of section six hundred four-c of this article. Notwithstanding the foregoing provisions of this paragraph, the additional member contribution required to be paid by each participant pursuant to this paragraph shall not exceed the percentage of their compensation that, when added to the contribution made pursuant to subdivision d of section six hundred thirteen of this article, equals nine and twenty-five one-hundredths percent of that compensation.

2. A participant in the twenty-five year retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year retirement program, or (ii) the date on which they complete thirty years of allowable service as a fire protection inspector member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which they are such a participant.

4. (i) Each participant in the twenty-five year retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from their compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if they had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first

full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of this subdivision, has received a refund of their additional member contribution including any interest paid on such contributions, again become a participant in the twenty-five year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph twelve of this subdivision), as if such additional member contributions never had been paid.

(ii)(A) Interest on a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to them pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of their additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c of this section shall be reduced by

a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of their additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to them pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of their additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall have a vested right to a deferred benefit pursuant to subdivision d of this section provided, however, that the deferred vested benefit calculated pursuant to paragraph two of subdivision d of this section shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of their additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such a loan).

8. The head of a retirement system which includes participants in the twenty-five year retirement program in its membership may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by such participants (including the deduction of such contributions, and any interest thereon, from the participant's compensation).

9. Subject to the provisions of paragraphs six and seven of this subdivision, where a participant has not paid in full any contribution deficiency chargeable to them pursuant to paragraphs four and five of this subdivision, and a benefit, other than a refund of member contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to their designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

10. (i) Such additional member contributions (and any interest thereon) shall be paid into the contingent reserve fund of the retirement system of which the participant is a member and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section six hundred thirteen of this article or otherwise while they are a participant in the twenty-five year retirement program or otherwise.

(ii) Should a participant in the twenty-five year retirement program who has rendered less than fifteen years of credited service cease to hold a position as a fire protection inspector member for any reason whatsoever, their accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by them pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while they are a participant in the twenty-five year retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

11. A participant in the twenty-five year retirement program shall be permitted to borrow from their additional member contributions (including any interest paid thereon) which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations, and procedures set forth in section six hundred thirteen-b of this article which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this article as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

12. Whenever a person has an unpaid balance of a loan or their additional member contributions pursuant to paragraph eleven of this subdivision at the time they become entitled to a refund of their additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contribution, together with interest thereon in accordance with the provisions of such subparagraph (ii).

§ 605. Disability retirement. a. Application for a disability retirement allowance for a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed.

b. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. The application must be filed either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, at any time, or (b) within three months from the last date the member was being paid on the payroll or, (c) in the case of a member who was placed on a leave of absence for medical reasons without pay, either voluntarily or involuntarily, at the time he ceased being paid, application may be made not later than twelve months after the date the employee receives notice that his employment status has been terminated. In the case of a member of the New York state teachers' retirement system, the application must be filed not later than twelve months after the last date the member was being paid on the payroll or, where the member was placed on leave of absence for medical reasons without pay, either voluntarily or involuntarily at the time the member ceased being paid, not later than twelve months after the date the member receives notice that the member's employment status has been terminated.

3. Provided, however, if the retirement system determines that such member was physically or mentally incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by his own willful negligence sustained in the performance of his duties in active service while actually a member of the retirement system the requirement that the member should have ten years of credited service shall be inapplicable.

c. If the retirement system determines that the member is physically or mentally incapacitated for the performance of gainful employment, and that he was so incapacitated at the time he ceased his performance of duties and ought to be retired for disability, he shall be so retired. Each retirement system shall be entitled to adopt appropriate procedures for making the foregoing determination, including but not limited to the conducting of medical examinations, if any, for the purpose of determining initial entitlement of an applicant for disability retirement or to continued entitlement to a disability retirement allowance. Such retirement shall be effective as of a date approved by

the head of the retirement system.

d. Upon retirement for disability one of the following retirement allowances shall be payable:

1. In the case of a member of a retirement system other than the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, if the member has attained age sixty when such retirement becomes effective, his retirement allowance shall be equal to that which he would receive in the case of service retirement at normal retirement age based on his credited service but in no event shall such retirement allowance exceed the amount he would receive pursuant to paragraph two of this subdivision.

2. In the case of a member of a retirement system other than the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, if the member has not attained age sixty when such retirement becomes effective, his retirement allowance shall consist of a retirement allowance which shall equal one-sixtieth of his final average salary multiplied by the number of years of his credited service, which formula shall be used only if the retirement allowance so computed exceeds one-third of his final average salary. If the retirement allowance so computed shall amount to one-third or less of the member's final average salary, his retirement allowance shall be computed upon the basis of the total service which he would have rendered if he continued in service until he attained age sixty provided that the resulting retirement allowance computed by resort to this formula shall not exceed one-third of the member's final average salary.

3. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, his retirement allowance shall be equal to the greater of:

- (i) one-third of his final average salary; or
- (ii) one-sixtieth of his final average salary multiplied by the number

of years of his credited service; provided, however, that where such member is otherwise eligible to retire for service, and the retirement allowance which he would receive in the case of service retirement is larger than the retirement allowance he would otherwise receive under this subparagraph or subparagraph (i) of this paragraph, his disability retirement allowance pursuant to this paragraph shall be equal to the retirement allowance he would receive if he had retired for service.

4. Notwithstanding any other law, rule or regulation to the contrary, any member who had an active membership in the New York state and local employees' retirement system or the New York state teachers' retirement system, when such member participated in World Trade Center rescue, recovery, or cleanup operations, as such participation is defined in section two of this chapter, who incurred a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined to have been incurred in the performance and discharge of duty and is the natural and proximate result of an accident not caused by such member's own willful negligence, shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

5. Notwithstanding the provisions of this subdivision, the minimum benefit payable to a member of the New York state and local employees' retirement system who has been determined to be physically or mentally incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by willful negligence sustained in the performance of duties in active service while actually a member of the retirement system shall be a pension of one-third of such member's final average salary.

e. The board of trustees of the New York city employees' retirement system may, consistent with the provisions of this section, adopt rules and regulations establishing a procedure for the medical review of determinations made by such retirement system on applications for disability retirement filed pursuant to this section. Any medical review procedure adopted pursuant to this subdivision shall be substantially

similar to the medical review procedure provided in section 13-169 of the administrative code of the city of New York, and shall provide that where a request for medical review is filed on behalf of an applicant for disability retirement, such request for medical review shall be void and of no effect unless such applicant for disability retirement, or a person acting on his or her behalf in accordance with such rules and regulations, executes a waiver providing that he or she waives any and all rights which he or she might otherwise have to seek or obtain any other disposition of such application for disability retirement by court or administrative proceedings or otherwise.

f. If the retirement system determines that such member was physically or mentally incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by his own willful negligence sustained in the performance of his duties in active service while actually a member of the retirement system, and the member is a teacher not within the coverage of section three of the workers' compensation law or an employee in group twenty of subdivision one of such section, the retirement allowance shall equal two-thirds of such member's final average salary.

g. Any payments made to a member who the retirement system has determined was physically or mentally incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by his own willful negligence sustained in the performance of his duties in active service while actually a member of the retirement system, and who is not eligible to receive workers' compensation benefits by operation of group twenty or group twenty-two of section three of the workers' compensation law, shall be deemed to be a payment made in lieu of a workers' compensation benefit.

h. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural

and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a)(1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement or a state police disability retirement pursuant to section three hundred sixty-three-b of this title and subsequent to such retirement is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(2) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement incurred a disability caused by any qualifying condition or impairment of the health which the applicable board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, upon such determination by the

applicable board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(3) A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.

(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:

(i) the member files either a written and sworn statement with the member's retirement system on a form provided by such system, or as allowed by the member's retirement system, electronically submits a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity, indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and

(ii) the member must have successfully passed a physical examination

for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.

(c) The head of the retirement system shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(d) Such member's retirement option shall not be changed as a result of such reclassification.

(e) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the head of the retirement system.

(f) The head of the retirement system is hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision h of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death

benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

j. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision h of this section; and (2) dies in active service from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 605-a. Accidental disability retirement for uniformed court officers and peace officers employed in the unified court system. a. A member employed as a uniformed court officer or peace officer in the unified court system shall be entitled to an accidental disability retirement

allowance if, at the time application therefor is filed, such member is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident, not caused by his or her own willful negligence, sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is first discontinued from service.

For purposes of this subdivision, a member who is injured as the result of a physical assault by an assailant, suffered while in service shall be entitled to accidental disability retirement unless the contrary can be proven by competent evidence under this section.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member; or
2. The head of the department in which such member is employed; or
3. Any person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred; and
- (b) The particulars thereof; and

- (c) The nature and extent of the member's injuries; and
- (d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If the notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment; or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident; or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The annual retirement allowance payable upon accidental disability retirement shall be a pension of three-quarters of his final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he may simultaneously file an application for service retirement in accordance with the provision of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

g. Notwithstanding any other provision of law, this section shall apply to uniformed court officers and peace officers employed in the unified court system who were hired on or after July twenty-seven, nineteen hundred seventy-six.

h. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to

procedures developed by the comptroller.

(e) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision h of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

j. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision h of this section; and (2) dies in active service from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

*** § 605-b. Accidental disability retirement for New York city uniformed sanitation members.** a. Definitions. The following terms as used in this section shall have the following meanings unless a different meaning is plainly required by the context:

1. "New York city uniformed sanitation member" shall mean a member (as defined in subdivision e of section six hundred one of this article) of NYCERS who is a member of the uniformed force of the New York city department of sanitation.

2. "NYCERS" shall mean the New York city employees' retirement system.

3. "Eligible prior uniformed sanitation disability retiree" shall mean a person who retired for disability as a NYCERS member and as a member of the uniformed force of the New York city department of sanitation pursuant to section five hundred seven or six hundred five of this

chapter, with an effective date of retirement on or after November first, nineteen hundred eighty-two, and prior to the effective date of this section.

b. 1. A New York city uniformed sanitation member who, on or after the effective date of this section, is determined by NYCERS to be physically or mentally incapacitated for the performance of duty as the natural and proximate result of an accident, not caused by his or her own willful negligence, sustained in the performance of such uniformed sanitation service while actually a member of NYCERS shall be retired for accidental disability. Such retirement shall be effective as of the date approved by the board of trustees of NYCERS.

2. Except as provided in paragraph one of subdivision c of this section, applications for accidental disability retirement may be made not later than two years after the occurrence of the accident upon which the application is based. Such application may be made by:

- (a) a New York city uniformed sanitation member;
- (b) the commissioner of the New York city department of sanitation; or
- (c) any person acting on behalf of and authorized by such member.

3. NYCERS shall process applications for accidental disability retirement pursuant to this section in accordance with the applicable statutory provisions and the rules and regulations of NYCERS pertaining generally to the processing of disability retirement applications. Unless inconsistent with the provisions of this section, the provisions of section 13-169 of the administrative code of the city of New York, relating to medical review procedures, and section 13-171 of such code, relating to safeguards on disability retirement, shall be applicable to accidental disability retirements pursuant to this section. The board of trustees of NYCERS shall have the authority to adopt rules and regulations for the purposes of implementing this section.

4. Subject to the provisions of section 13-176 of the administrative code of the city of New York, the annual retirement allowance payable to accidental disability retirees pursuant to this section shall be an amount equal to three-quarters of the member's final average salary. The

retirement allowance payable pursuant to this section shall be in lieu of any other disability retirement allowance which may otherwise be payable by NYCERS.

c. 1. Notwithstanding the provisions of paragraphs one and two of subdivision b of this section or any other provision of law to the contrary, any eligible prior uniformed sanitation disability retiree (as defined in paragraph three of subdivision a of this section) shall be eligible to apply for accidental disability retirement pursuant to subdivision b of this section either (a) if the member is vested and is incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, or (b) by filing an application with NYCERS within one year of the effective date of this section.

2. Any eligible prior uniformed sanitation disability retiree who files a timely application for accidental disability retirement pursuant to paragraph one of this subdivision, and who retired either for disability pursuant to section six hundred five of this article with less than ten years of credited service, or for accidental disability pursuant to section five hundred seven of this chapter, shall be granted accidental disability retirement benefits pursuant to subdivision b of this section, with payability of those benefits to begin on the earlier of (a) January first, two thousand five, or (b) a date certified as the payability date for all persons entitled to accidental disability retirement benefits pursuant to this subdivision by the commissioner of labor relations for the city of New York in a letter to the executive director of NYCERS.

3. Any eligible prior uniformed sanitation disability retiree who files a timely application for accidental disability retirement pursuant to paragraph one of this subdivision, and who retired for disability pursuant to section six hundred five of this article with ten or more years of credited service, shall have that application processed in accordance with the applicable provisions which govern the processing of accidental disability retirement applications filed pursuant to subdivision b of this section by or on behalf of active New York city

uniformed sanitation members of NYCERS. NYCERS shall use its best efforts to make its determinations on such applications as soon as practicable. Where NYCERS determines that any such prior uniformed sanitation disability retiree is entitled to accidental disability retirement benefits pursuant to subdivision b of this section, payability of those benefits shall begin on the earlier of (a) January first, two thousand five, or (b) a date certified as the payability date for all persons entitled to accidental disability retirement benefits pursuant to this subdivision by the commissioner of labor relations for the city of New York in a letter to the executive director of NYCERS.

4. The accidental disability retirement allowance payable pursuant to this section to any eligible prior uniformed sanitation disability retiree determined by NYCERS to be entitled to such benefit shall be in lieu of any other disability retirement benefit which such member may have been receiving or entitled to receive from NYCERS. Any such person who was receiving disability retirement benefits from NYCERS pursuant to any statutory provision other than this section shall continue to receive payment of such benefits until accidental disability retirement benefits become payable pursuant to this section on the applicable date specified in paragraphs two and three of this subdivision. On and after such date he or she shall no longer be entitled to receive disability benefits from NYCERS pursuant to such other statutory provisions.

5. Any eligible prior uniformed sanitation disability retiree who becomes entitled to accidental disability retirement benefits pursuant to this section shall have the same method of payment applied to such benefits as was applicable to the disability retirement benefits he or she was receiving from NYCERS pursuant to a statutory provision other than this section, and such person shall not be permitted to change such method of payment from the maximum retirement allowance to an option or from the option selected previously to another option or to the maximum retirement allowance.

6. Notwithstanding any other provision of law to the contrary, for the purposes of calculating the cost-of-living adjustment which may otherwise become payable pursuant to section 13-696 of the

administrative code of the city of New York to an eligible prior uniformed sanitation disability retiree for any period of time after such person has begun receiving accidental disability retirement benefits pursuant to this section, the year of retirement of such person shall be deemed to be the year in which he or she retired for disability pursuant to section five hundred seven or six hundred five of this chapter, as the case may be.

d. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement, a performance of duty disability retirement, or was separated from service with a vested right to deferred payability of a retirement allowance and subsequent to such retirement or separation which is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully

developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement or vesting as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the head of the retirement system.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree or vestee who: (1) has met the criteria of subdivision d of this section and retired on a service or disability retirement, would have met the criteria if not already retired on an accidental disability, or was separated from service with a vested right to deferred payability of a retirement allowance; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree or vestee shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's or vestee's part. Such retiree's or vestee's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree or vestee shall be deemed to have died on the date of such retiree's or vestee's retirement or separation from service with vested rights. Upon the retiree's or vestee's death, the eligible

beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's or vestee's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, or vested right to such benefit, including any post-retirement death benefits, since the retiree's or vestee's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), or that will be eligible under the vested right, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

f. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision d of this section; (2) dies in active service or after separating from service with a vested right to deferred payability of a retirement allowance, but prior to the payability of that retirement allowance; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death

benefit as set forth in section six hundred seven of this article.

* NB There are 2 § 605-b's

*** § 605-b. Uniformed court officers and peace officers; certain disabilities.** Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a uniformed court officer or peace officer in the unified court system who contracts any condition of impairment of health caused by diseases of the heart, resulting in disability or death to such court officer or peace officer, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence; provided, however, that prior to entry into service, such member successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

* NB There are 2 § 605-b's

§ 605-c. Accidental disability retirement for deputy sheriffs employed by the city of New York. a. A member of the New York city employees' retirement system employed by the city of New York as a deputy city sheriff, level one, deputy city sheriff, level two, supervising deputy sheriff or administrative sheriff, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an accident, sustained in the performance of his or her duties, not caused by his or her willful negligence, sustained in such service and while actually a member of the retirement system, shall be paid an accidental disability retirement allowance equal to three-quarters of final average compensation as defined in subdivision e of section six hundred eight of this article, subject to the provisions of section 13-176 of the administrative code of the city of New York.

b. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or

regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition, as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement, a performance of duty disability retirement, or was separated from service with a vested right to deferred payability of a retirement allowance and subsequent to such retirement or separation is determined by the head of the retirement system to have a qualifying World Trade Center condition as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement or vesting as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system

according to procedures developed by the comptroller.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

c. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree or vestee who: (1) has met the criteria of subdivision b of this section and retired on a service or disability retirement, would have met the criteria if not already retired on an accidental disability, or was separated from service with a vested right to deferred payability of a retirement allowance; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree or vestee shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's or vestee's part. Such retiree's or vestee's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree or vestee shall be deemed to have died on the date of such retiree's or vestee's retirement or separation from service with vested rights. Upon the retiree's or vestee's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service, vested right or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, or vested right to such benefit, including any post-retirement death benefits, since the retiree's or vestee's death. If the eligible beneficiary is not the only

beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), or that will be eligible under the vested right, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision b of this section; (2) dies in active service or after separating from service with a vested right to deferred payability of a retirement allowance, but prior to the payability of that retirement allowance; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 605-d. Accidental disability retirement for chief fire marshals, assistant fire marshals, division supervising fire marshals, supervising fire marshals, fire marshals and fire marshal trainees in Nassau county.
a. A member employed as a chief fire marshal, assistant chief fire marshal, division supervising fire marshal, supervising fire marshal, fire marshal or fire marshal trainee in Nassau county shall be entitled to an accidental disability retirement allowance if, at the time

application therefor is filed, such member is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident, unless the contrary be proved by competent evidence, not caused by his or her own willful negligence, sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made not later than two years after the member is first discontinued from service.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member; or
2. The head of the department in which such member is employed; or
3. Any person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred; and
- (b) The particulars thereof; and
- (c) The nature and extent of the member's injuries; and
- (d) His or her alleged incapacity.

2. The notice herein required need not be given:

- (a) If the notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within

which a participating employer in Nassau county shall have its employees located or performing functions and duties within the normal scope of their employment; or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident; or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The annual retirement allowance payable upon accidental disability retirement shall be a pension of three-quarters of his or her final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

g. Notwithstanding any other provision of law, this section shall apply to chief fire marshals, assistant chief fire marshals, division supervising fire marshals, supervising fire marshals, fire marshals and fire marshal trainees in Nassau county who were hired on or after July twenty-seventh, nineteen hundred seventy-six.

§ 605-e. Accidental disability retirement for ambulance medical technician supervisors, ambulance medical technician coordinators, ambulance medical technicians, police medic supervisors, police medic

coordinators, and police medics in Nassau county. a. A member employed as an ambulance medical technician supervisor, ambulance medical technician coordinator, ambulance medical technician, police medic supervisor, police medic coordinator, or police medic in Nassau county shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, such member is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident, unless the contrary be proved by competent evidence, not caused by his or her own willful negligence, sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made not later than two years after the member is first discontinued from service.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member; or
2. The head of the department in which such member is employed; or
3. Any person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred; and
- (b) The particulars thereof; and
- (c) The nature and extent of the member's injuries; and

(d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If the notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer in Nassau county shall have its employees located or performing functions and duties within the normal scope of their employment; or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident; or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The annual retirement allowance payable upon accidental disability retirement shall be a pension of three-quarters of his or her final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

g. Notwithstanding any other provision of law, this section shall apply to ambulance medical technician supervisors, ambulance medical technician coordinators, ambulance medical technicians, police medic supervisors, police medic coordinators, and police medics in Nassau county who were hired on or after July twenty-seventh, nineteen hundred

seventy-six.

§ 605-f. Disability benefits; certain disabilities. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a county fire marshal, fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal, assistant fire marshal, or fire marshal trainee employed by Nassau county who contracts any condition of impairment of health caused by diseases of the heart, resulting in disability or death to such county fire marshal, fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal, assistant fire marshal, or fire marshal trainee, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence; provided, however, that prior to entry into service, such county fire marshal, fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal, assistant fire marshal, or fire marshal trainee successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

*** § 605-g. Accidental disability retirement for deputy sheriffs in Nassau county.** a. A member employed as a deputy sheriff in Nassau county shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, such member is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident, unless the contrary be proved by competent evidence, not caused by his or her own willful negligence, sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based.

However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made not later than two years after the member is first discontinued from service.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member; or
2. The head of the department in which such member is employed; or
3. Any person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred; and
- (b) The particulars thereof; and
- (c) The nature and extent of the member's injuries; and
- (d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If the notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer in Nassau county shall have its employees located or performing functions and duties within the normal scope of their employment; or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident; or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or

mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The annual retirement allowance payable upon accidental disability retirement shall be a pension of three-quarters of his or her final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

g. Notwithstanding any other provision of law, this section shall apply to deputy sheriffs in Nassau county who were hired on or after July twenty-seventh, nineteen hundred seventy-six.

* NB There are 2 § 605-g's

*** § 605-g. Accidental disability retirement for deputy sheriffs in Suffolk county.** a. A member employed as a deputy sheriff in Suffolk county shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, such member is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident, unless the contrary be proved by competent evidence, not caused by his or her own willful negligence, sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service

subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made not later than two years after the member is first discontinued from service.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member; or
2. The head of the department in which such member is employed; or
3. Any person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred; and
- (b) The particulars thereof; and
- (c) The nature and extent of the member's injuries; and
- (d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If the notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer in Suffolk county shall have its employees located or performing functions and duties within the normal scope of their employment; or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident; or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be

retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The annual retirement allowance payable upon accidental disability retirement shall be a pension of three-quarters of his or her final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

g. Notwithstanding any other provision of law, this section shall apply to deputy sheriffs in Suffolk county who were hired on or after July twenty-seventh, nineteen hundred seventy-six.

* NB There are 2 § 605-g's

§ 606. Death benefits. a. A member of a retirement system who is subject to the provisions of this article, exclusive of those members for whom provision is made pursuant to subdivision b of this section, shall, at the time of first becoming a member thereof, make an election, which shall be irrevocable, for coverage for financial protection in the event of death in service, between the two following benefits:

1. A benefit upon the death of a member in service equal to one month's salary for each full year of service up to a maximum of three years' salary upon the completion of thirty-six full years of service, or in the event that a member is eligible to retire without benefit reduction pursuant to section six hundred three of this article, a benefit equal to the pension reserve, if any, which would have been payable to such member had he entered prior to the effective date of

this article and died in service; or

2. A benefit upon the death of a member in service equal to the member's salary upon his or her completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system or the New York state and local employees' retirement system, such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he or she last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he or she last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he or she last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he or she last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he or she last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system or the New York state and local employees' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety per

centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten per centum per year of the original benefit otherwise payable, but not below ten per centum of the original benefit otherwise payable.

In the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age, commencing upon attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon

attainment of age sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. Upon retirement, from any retirement system, the benefit in force shall be reduced by fifty per centum; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five per centum, and upon commencement of the third year of retirement, the benefit shall be ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.

3. If a member dies in service without having made the election specified in this subdivision within ninety days after first becoming a member, or within the period prescribed by the retirement system of which he is a member if such period is less than ninety days, he shall be deemed to have made the election specified in paragraph two.

4. Notwithstanding any provision of this article, a member of a retirement system subject to the provisions of this article who last joined such system on or after January first, two thousand one who is not covered by the death benefit calculation provided in subdivision b of this section shall, upon a qualifying death, be covered by the death

benefit calculation provided pursuant to paragraph two of this subdivision and shall not be entitled to elect between the death benefit calculations provided in paragraphs one and two of this subdivision. Any individual who last joined such system before January first, two thousand one who is not covered by the death benefit calculation provided in subdivision b of this section shall be covered, upon a qualifying death, by the death benefit calculation provided by paragraph two of this subdivision unless such individual had timely elected death benefit coverage under the calculation provided by paragraph one of this subdivision and, upon such death, it is determined that the benefit, as calculated under such paragraph one would be greater than as calculated under such paragraph two, in which case the benefit calculated under such paragraph one shall be payable.

b. A member of a retirement system subject to the provisions of this article who is a police officer, firefighter, correction officer or sanitation worker and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provisions of section six hundred four of this article, shall upon completion of ninety days of service be covered for financial protection in the event of death in service pursuant to this subdivision. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law or, in the case of a member of a retirement system other than the New York city employees' retirement system, the specific limitations specified for age of entrance into service contained in subparagraphs (b), (c), (d), (e) and (f) of paragraph two of subdivision a of this section.

c. For the purpose of this section, salary shall be the regular compensation earned during the member's last twelve months of service in full pay status as a member or, if he or she had not completed twelve months of service prior to the date of death, but was subject to the provisions of subdivision b of this section, the compensation he or she would have earned had he or she worked for the twelve months prior to such date; provided, however, for the purpose of this section salary

shall exclude any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation sick leave, or accumulated vacation credit or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence) and in no event shall it exceed the maximum salary specified in section one hundred thirty of the civil service law, as added by part B of chapter ten of the laws of two thousand eight, or the maximum salary specified in section one hundred thirty of the civil service law, as hereafter amended, whichever is greater.

d. The benefits provided pursuant to this section are in lieu of all other benefits provided by this or any other state or local law exclusive of a benefit provided under the workmen's compensation law, the civil service law or group life insurance; provided, however, a beneficiary of a member eligible for a benefit as the result of a service connected accident, may elect to receive such other benefit in lieu of the benefit provided pursuant to this section.

e. For the purposes of this section:

1. A member who dies while off the payroll shall be considered to be in service provided he or she (a) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five, (b) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (c) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer; notwithstanding any other provision of law to the contrary, a member of the New York city employees' retirement system or the board of education retirement system of the city of New York shall be deemed to have died on the payroll for the purposes of this section

in the event that death occurs while such member is on an authorized leave of absence without pay for medical reasons which has continuously been in effect since the member was last paid on the payroll in such service, provided, however, that such member was on the payroll in such service and paid within the four-year period prior to his or her death; and

2. The benefit payable shall be in addition to any payment made on account of a member's accumulated contributions.

3. Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 606-a. Death benefit for vested members who die prior to retirement.

a. A death benefit plus the reserve-for-increased-take-home-pay, if any, shall be payable upon the death of a member of a retirement system who:

1. Died before the effective date of retirement while a member of such retirement system;

2. Had a least ten years of credited service at the time of death; and

3. Died at a time and in a manner which did not result in the eligibility of the member's estate or any beneficiary to receive any death benefits from such retirement system on account of such death.

b. Benefits provided under this section shall be payable to the member's estate or the beneficiary or beneficiaries nominated by the member on a designation of beneficiary form filed with the administrative head of such retirement system.

c. The amount of the benefit payable pursuant to this section shall be equal to one-half of the amount of the ordinary death benefit which would have been payable had the member's death occurred on the last day of service upon which membership was based.

*** § 606-b. Death benefit for deputy sheriffs employed by Nassau county.** Notwithstanding any provision of law to the contrary, where a deputy sheriff would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 § 606-b's

*** § 606-b. Death benefits for correction officers employed by Nassau county.** a. As used in this section, the term "correction officer" shall mean a person employed by Nassau county with a title of correction recruit, correction officer, correction corporal, correction sergeant, correction lieutenant, or correction captain.

b. Notwithstanding any provision of law to the contrary, where a correction officer would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 § 606-b's

*** § 606-b. Death benefits for correction officers employed by Suffolk county.** 1. As used in this section, the term "correction officer" shall have the same meaning as in subdivision e of section eighty-nine-f of this chapter.

2. Notwithstanding any provision of law to the contrary, where a correction officer would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 § 606-b's

*** § 606-b. Death benefits for deputy sheriffs employed by Suffolk county.** Notwithstanding any provision of law to the contrary, where a deputy sheriff would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 4 606-b's

*** § 606-c. Death benefits for correction officers employed by Westchester county.** a. As used in this section, the term "correction officer" shall mean a person employed by the Westchester county correction department with a title of correction officer, correction officer-sergeant, correction officer-captain, assistant warden, associate warden or warden.

b. Notwithstanding any provision of law to the contrary, where a correction officer would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of the chapter of the laws of two thousand twenty-three that added this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 2 § 606-c's

*** § 606-c. Death benefits for fire marshals employed by Nassau county.**

a. As used in this section, the term "fire marshal" shall mean a member who is employed by Nassau county with a title of county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal, chief fire marshal, or division supervising fire marshal.

b. Notwithstanding any provision of law to the contrary, where a fire marshal would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after the effective date of this section, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

* NB There are 2 § 606-c's

§ 607. Accidental death benefits. a. The eligible beneficiary of a member in service, or of a vested member who dies as a result of a qualifying World Trade Center condition as defined in section two of this chapter, shall be entitled to an accidental death benefit in the form of a pension equal to fifty percent of such member's wages earned

during his or her last year of actual service or his or her annual wage rate if he or she was credited with less than one year of service since last becoming a member, if, upon application filed within five years after the death of the member, the head of the retirement system determines that such member died before the effective date of retirement, as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in the performance of his or her duties in active service and while actually a member of the retirement system.

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five.

Provided, however, the head of the retirement system in its sole discretion may accept an application for an accidental death benefit after the expiration of the applicable filing period, where, but only where, an ordinary death benefit has not been previously paid.

b. If an eligible beneficiary receiving the accidental death benefit hereunder becomes ineligible to continue to receive such benefit, the benefit shall be continued for all other members of the eligible class of beneficiaries and, if none, to each successive class, if any, during their eligibility therefor.

c. If the aggregate benefits under the provisions of this section have not exceeded the amount of the ordinary lump sum death benefit because of the absence of eligible beneficiaries or because those beneficiaries

formerly eligible are no longer eligible for payments pursuant to section six hundred one of this article, then the difference between the amounts, if any, paid under this section and the amount of the ordinary lump sum death benefit shall be paid to:

1. The last eligible beneficiary or beneficiaries, if surviving, who were receiving pension payments hereunder or, if none

2. The distributees of the member, if there were no eligible beneficiaries at the member's death, or the persons who would be distributees of the member had he or she died intestate on the date that the last eligible beneficiary died or became ineligible.

§ 607-a. Performance of duty disability retirement. a. Any security hospital treatment assistant, as that term is defined in subdivision i of section eighty-nine of this chapter, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result, of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of, an act of any person confined in an institution under the jurisdiction of the office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

- b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person described in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an incarcerated individual or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge

of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

c. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a security hospital treatment assistant, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

§ 607-b. Performance of duty disability retirement. a. Any member of the New York city employees' retirement system who is employed by the city of New York or by the New York city health and hospital corporation in the position of emergency medical technician or advanced emergency medical technician, as those terms are defined in section three thousand one of the public health law, who, on or after March seventeenth, nineteen hundred ninety-six, becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary, subject to section 13-176 of the administrative code of the city of New York. Any member who has made application or who, after the effective date of the chapter of the laws of two thousand four which amended this subdivision, makes application for such performance of duty pension shall be entitled to invoke the medical review procedure provided for in subdivision e of section six hundred five of this article, subject to the terms and conditions set forth in such subdivision.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who

contracts HIV (where the member may have been exposed to a bodily fluid of a person under his or her care or treatment, or while the member examined, transported or otherwise had contact with such person, in the performance of his or her duties) tuberculosis or hepatitis, will be presumed to have contracted such disease in the performance or discharge of his or her duties, unless the contrary be proved by competent evidence.

c. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) the head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement, a performance of duty disability retirement, or was separated from service with a vested right to deferred payability of a retirement allowance, and subsequent to such retirement or separation is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of

the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement or vesting as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCERS board of trustees according to procedures developed by the NYCERS board of trustees.

(e) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree or vestee who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, would have met the criteria if not already retired on an accidental disability, or was separated from service with a vested right to deferred payability of a retirement allowance; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree or vestee shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's or vestee's part. Such retiree's or vestee's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree or vestee shall be deemed to have died on the date of such retiree's or vestee's retirement or separation from service with vested rights. Upon the retiree's or vestee's death, the eligible

beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service, vested right or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, or vested right to such benefit, including any post-retirement death benefits, since the retiree's or vestee's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), or that will be eligible under the vested right, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; (2) dies in active service or after separating from service with a vested right to deferred payability of a retirement allowance, but prior to the payability of that retirement allowance; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death

benefit as set forth in section six hundred seven of this article.

§ 607-c. Performance of duty disability benefit. a. Any sheriff, deputy sheriff, undersheriff or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who are employed in a county which makes an election pursuant to subdivision d of such section sixty-three-b, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of any act of any incarcerated individual or any person confined in an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person defined in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an incarcerated individual or person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

c. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural

and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the comptroller.

(e) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any

general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; and (2) dies in active service from a

qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

f. Any sheriff, deputy sheriff, undersheriff, or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who are employed in Westchester county, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an intentional or reckless act of any civilian visiting, or otherwise present at, an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

g. Any sheriff, deputy sheriff, undersheriff, or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who is employed in Nassau county, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an intentional or reckless act of any civilian visiting, or otherwise present at, an institution under the jurisdiction of such county where such injury was sustained and documented after the enactment of this section, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter. Notwithstanding any

other provision of law to the contrary, none of the provisions of this subdivision shall be subject to section twenty-five of this chapter.

§ 607-d. Disability benefits. A county may elect to make the benefits provided herein available to the sheriff, undersheriff, deputy sheriffs who are engaged directly in criminal law enforcement activities, and correction officers who are in the employ of the county. Notwithstanding any provision of this chapter or any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in the disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a member covered by this section, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary can be proved by competent evidence.

§ 607-e. Accidental disability retirement; Westchester county district attorney investigators. The county of Westchester may elect to make the benefits provided in this section available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney.

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service

subsequent to the accident, either voluntarily or involuntarily, application may be made not later than two years after the member is first discontinued from service and provided that the member meets the requirements of paragraph one of this subdivision.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member, or
2. The head of the department in which such member is employed, or
3. A person acting on behalf of and authorized by such member.

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

- (a) The time when and the place where such accident occurred, and
- (b) The particulars thereof, and
- (c) The nature and extent of the member's injuries, and
- (d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident, or

(c) If a failure to file notice has been excused for good cause shown, as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such

retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon accidental disability retirement shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated contributions, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may be entitled, if any, plus

3. A pension of three-quarters of his final average salary. The payment of such pension shall be subject to the provisions of section six hundred seven-f of this article.

f. If the member, at the time of the filing of an application under the provisions of subdivision b of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter; provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for accidental disability retirement.

§ 607-f. Payment of both pensions for accident and other benefits prohibited; Westchester county district attorney investigators. a. If any benefits under the workers' compensation law may be or become payable as the result of accidental disability or accidental death, no payment of any benefit shall be made pursuant to this article on account of such disability or death until there shall have been a final determination of the claim for workers' compensation benefits. Pending such final determination, however, the comptroller may authorize payment of all or any part of the benefits payable under this chapter and, in that event, shall be entitled to reimbursement out of the unpaid installment or installments of compensation due under the workers'

compensation law; provided that claim therefor is filed pursuant to the provisions of such law. Any pension, payable pursuant to this article on account of any such disability or death, shall be reduced by the amount of the benefits that are finally determined to be payable under the workers' compensation law by reason of such disability or death. Such reduction shall be effectuated as follows:

1. Pension installments shall be reduced by the amount of the concurrent workers' compensation benefits.

2. The pension reserve on account of a pension so payable shall be reduced by the amount of the lump sum workers' compensation benefits. In such case, the pension thereafter payable shall be the actuarial equivalent of the pension reserve as so reduced. No such reduction shall be made, however, for the amount of medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches, or apparatus, and of any funeral expense provided under the workers' compensation law in addition to regular compensation benefits, or of any legal fees awarded under the workers' compensation law.

- b. A final determination of the state workers' compensation board that benefits are payable pursuant to the workers' compensation law by reason of the accidental disability or accidental death of a member of the retirement system shall not in any respect be, or constitute, a determination that an accidental disability retirement allowance or an accidental death benefit is payable on account thereof pursuant to the provisions of this article.

§ 607-g. Retirement for disability benefits incurred in the performance of duty; Westchester county district attorney investigators.

- a. The county of Westchester may elect to make the benefits provided herein available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney.

b. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is discontinued from service; and provided that the member meets the requirements of subdivision a of this section and this subdivision.

c. Application for retirement for disability incurred in performance of duty may be made by:

1. Such member, or

2. The head of the department in which such member is employed.

d. After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, he or she shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. 1. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the occurrence which is the basis for the disability incurred in the performance of duty, setting forth:

- (a) The time, date, and place of such occurrence, and
- (b) The particulars thereof, and

- (c) The nature and extent of the member's injuries, and
- (d) The alleged disability.

2. The notice herein required need not be given:

(a) If notice of such occurrence shall be filed in accordance with the provisions of the workers' compensation law of any state within which the county of Westchester shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for retirement for disability incurred in the performance of duty is filed within one year after the date of the occurrence which forms the basis for the application, or

(c) If a failure to file notice has been excused for good cause shown, as provided by rules and regulations promulgated by the comptroller.

3. Notwithstanding any other provision of law to the contrary, the provisions of this subdivision shall apply to all occurrences before or after the effective date of this section.

f. The retirement allowance payable upon retirement for disability incurred in the performance of duty shall consist of a pension of one-half of his or her final average salary plus an annuity which shall be the actuarial equivalent of the member's accumulated contributions, if any.

g. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement; provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the retirement for disability incurred in performance of duty.

h. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section sixty-three, sixty-four, five hundred seven-f, five hundred seven-g, six hundred seven-e, or six hundred seven-f, of this chapter.

i. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

j. A final determination of the comptroller that the member is not entitled to retirement benefits pursuant to this section shall not in any respect be, or constitute, a determination with regard to benefits payable pursuant to section two hundred seven-c of the general municipal law.

k. Nothing in this section shall be deemed to preclude the simultaneous filing of an application for benefits pursuant to any other section of law nor the consideration of such application by the retirement system, including an accidental disability benefit pursuant to section six hundred seven-e of this article.

§ 607-h. Disability benefits; Westchester county district attorney investigators. The county of Westchester may elect to make the benefits provided in this section available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney. Notwithstanding any provision of this chapter or any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in the disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a member covered by this section, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary can be proved by competent evidence.

*** § 607-j. Performance of duty, disability retirement for chief fire marshals, assistant chief fire marshals, division supervising fire**

marshals, supervising fire marshals, fire marshals and fire marshal trainees in Nassau county. a. The county of Nassau shall make the benefits provided herein available to county fire marshals, chief fire marshals, assistant chief fire marshals, division supervising fire marshals, supervising fire marshals, fire marshals, assistant fire marshals and fire marshal trainees in the employ of Nassau county.

b. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability, not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is first discontinued from service; and provided that the member meets the requirements of subdivision a of this section and this subdivision.

c. Application for a performance of duty disability retirement allowance for such a member may be made by:

1. Such member; or

2. The head of the department in which such member is employed; or

3. Any person acting on behalf of and authorized by such member.

d. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller

within ninety days after such occurrence which is the basis for the disability incurred in the performance of duty, setting forth:

- (a) The time and the place of such occurrence; and
- (b) The particulars thereof; and
- (c) The nature and extent of the member's injuries; and
- (d) His or her alleged disability.

2. The notice herein required need not be given:

(a) If the notice of such occurrence shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer in Nassau county shall have its employees located or performing functions and duties within the normal scope of their employment; or

(b) If the application for performance of duty disability retirement is filed within one year after the date of the occurrence which forms the basis for the application; or

(c) If a failure to file notice has been excused for good cause shown as provided by rules and regulations promulgated by the comptroller.

e. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

f. The annual retirement allowance payable upon retirement for disability incurred in the performance of duty shall be a pension of one-half of his or her final average salary plus an annuity which shall be the actuarial equivalent of the member's accumulated contributions, if any.

g. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such

application is filed without prejudice to the application for the retirement for disability incurred in performance of duty.

h. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section sixty-four of this chapter.

i. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

j. A final determination of the comptroller that the member is not entitled to retirement benefits pursuant to this section shall not in any respect be, or constitute, a determination with regard to benefits payable pursuant to section two hundred seven-a of the general municipal law.

* NB There are 3 § 607-j's

*** § 607-j. Performance of duty disability retirement benefits for certain first responders in Nassau county.** a. The county of Nassau shall make the benefits provided herein available to the following employee titles in the employ of Nassau county: police medic; police medic supervisor; police medic coordinator; bureau director emergency ambulance; and deputy bureau director emergency ambulance.

b. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based.

However, in the case where a member is discontinued from service, either voluntarily, or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is first discontinued from service; and provided that the member meets the requirements of subdivision a of this section and this subdivision.

c. Application for a performance of duty disability retirement allowance for such a member may be made by:

1. Such member; or
2. The head of the department in which such member is employed; or
3. Any person acting on behalf of and authorized by such member.

d. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the occurrence which is the basis for the disability incurred in the performance of duty, setting forth:

- (a) The time when and the place of such occurrence; and
- (b) The particulars thereof; and
- (c) The nature and extent of the member's injuries; and
- (d) His or her alleged disability.

2. The notice herein required need not be given:

(a) If the notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer in Nassau county shall have its employees located or performing functions and duties within the normal scope of their employment; or

(b) If the application for performance of duty disability retirement is filed within one year after the date of the occurrence which forms the basis for the application; or

(c) If a failure to file notice has been excused for good cause shown

as provided by rules and regulations promulgated by the comptroller.

e. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty pursuant to subdivision b of this section and ought to be retired, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

f. The annual retirement allowance payable upon retirement for disability incurred in the performance of duty shall be a pension of one-half of his or her final average salary plus an annuity which shall be the actuarial equivalent of the member's accumulated contributions, if any.

g. If the member, at the time of the filing of an application under the provision of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provision of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for the retirement for disability incurred in performance of duty.

h. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section sixty-four of this chapter.

i. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

j. A final determination of the comptroller that the member is not entitled to retirement benefits pursuant to this section shall not in any respect be, or constitute, a determination with regard to benefits payable pursuant to section two hundred seven-c of the general municipal law.

* NB There are 3 § 607-j's

*** § 607-j. Performance of duty disability retirement.** a. Any member of the retirement system employed by the division of military and naval affairs shall be eligible to retire pursuant to the provisions of this section if he or she is an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III or training and safety officer.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any member who becomes physically or mentally incapacitated as the result of a disability, who is presently employed and who shall have sustained such disability while so employed and while actually a member of the retirement system, provided that such disability or death (A) was caused by the natural and proximate result of a disability, not caused by such firefighter's own willful negligence and (B) was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence, shall be paid a performance of duty disability retirement benefit payable pursuant to this section.

c. Application for a performance of duty disability retirement allowance for such a member may be made by:

1. Such member;
2. The head of the department in which such member is employed; or
3. Some person acting on behalf of and authorized by such member.

d. After the filing of such an application such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for performance of duty disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon retirement for performance of duty disability shall consist of a pension of one-half of his or her final average salary plus an annuity which shall be the actuarial equivalent of such member's accumulated contributions, if any.

f. If the member, at the time of the filing of an application under the provisions of subdivision c of this section, is eligible for a service retirement benefit, then and in that event, such member may simultaneously file an application for service retirement in accordance with the provisions of section seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for performance of duty disability retirement.

g. Any benefit provided pursuant to this section shall not be considered as an accidental disability benefit within the meaning of section sixty-four of this chapter. Any benefit payable pursuant to the workers' compensation law to a member receiving a disability allowance pursuant to this section shall be in addition to such retirement for disability incurred in performance of duty allowance.

* NB There are 3 § 607-j's

§ 607-k. Certain impairments of health; presumption. a. Any member of the retirement system employed by the division of military and naval affairs shall be eligible to retire pursuant to the provisions of this section if he or she is an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III or training and safety officer.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by: (1) diseases of the heart; or (2) any (i) melanoma or (ii) condition of cancer affecting the lymphatic, digestive, hematological, urinary, neurological, breast, reproductive or prostate systems resulting in disability to a member covered by this section, presently

employed, who successfully passed a physical examination on entry into service as an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III or training and safety officer which examination failed to reveal evidence of any disease or other impairment of the heart or such melanoma or condition, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence and shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of sections sixty-three and sixty-four of this chapter.

c. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the lung, resulting in disability to a member covered by this section, presently employed, who successfully passed a physical examination on entry into service as an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III or training and safety officer, which examination failed to disclose evidence of any disease or other impairment of the lung, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence and shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

d. After the filing of an application such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for performance of duty disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. If the member, at the time of the filing of such application, is eligible for a service retirement benefit, then and in that event, such member may simultaneously file an application for service retirement,

provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for performance of duty disability retirement.

§ 607-1. Performance of duty disability retirement; division of homeland security and emergency services. a. Any employee of the division of homeland security and emergency services in the title series fire protection specialist who becomes physically or mentally incapacitated for the performance of duty as the natural and proximate result of an injury sustained in the performance or discharge of his or her duties shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three-b of this chapter.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart resulting in disability or death to an employee covered by this section presently employed who shall have sustained such disability while so employed and who successfully passed a physical examination on entry into service, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that such disease or impairment was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

§ 608. Final average salary. a. A member's final average salary shall be the average wages earned by such a member during any three consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary. Where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing

final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state and local employees' retirement system and the New York city teachers' retirement system, a member's final average salary shall be equal to one-third of the highest total wages earned by such member during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary.

c. Notwithstanding the provisions of subdivisions a and b of this section, the final average salary of an employee who has been a member of the New York city employees' retirement system or the New York city teachers' retirement system for less than one year shall be the projected one year salary, with the calculation based upon a twelve month projection of the sums earned in the portion of the year worked. If a member has been employed for more than one year but less than two years, then the member's final average salary shall be the average of the first year and projected second year earnings based upon the calculation above, and if more than two years, but less than three years, then one-third the total of the first two years of employment plus the projected third year's earnings, calculated as indicated above, provided that this subdivision shall not apply to a New York city revised plan member of the New York city employees' retirement system or a New York city revised plan member of the New York city teachers' retirement system.

d. Subject to the provisions of subdivision c of this section, and notwithstanding the provisions of subdivision a of this section, with

respect to members of the New York city employees' retirement system and the New York city board of education retirement system who are subject to the provisions of this article, a member's final average salary shall be determined pursuant to the provisions of paragraph fourteen of subdivision e of section 13-638.4 of the administrative code of the city of New York, provided, however, that the applicable provisions and limitations of the term "wages", as defined in subdivision l of section six hundred one of this article, shall apply to such determinations of final average salary.

e. With respect to a member covered by the provisions of section six hundred five-c of this article, final average compensation shall be the average wages earned by such a member during any five consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average compensation exceeds that of the average of the previous two years by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average compensation.

§ 609. Credit for service. a. Part-time service.

1. A member who works less than full time, which for the purposes of this section shall mean less than thirty hours a week, shall receive retirement credit for such service in accordance with the following provisions:

(i) a member employed on an hourly basis who works for five hundred or more hours a year and who is on the payroll for a minimum of five months in the year shall receive credit on a prorated basis, but in no event shall less than six hours constitute a full day's retirement credit;

(ii) a member employed on a per diem basis who works at least sixty days in a year and who is on the payroll for a minimum of five months in the year shall receive retirement credit on a day-for-day basis, but in no event shall less than six hours constitute a full day's retirement credit;

(iii) if the annual salary of a member paid on a basis other than per diem or per hour would be less than the product of the state's minimum

wage during such period and two thousand hours, the presumption shall be that such a member is a part-time employee and any retirement credit granted shall be prorated; provided, however, such a member shall not receive greater credit than a member working on a per diem basis.

2. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provisions of this section, with respect to members of the New York state employees' retirement system, teachers as defined in section one hundred thirty-six of the civil service law, employed full time for the school year, shall be deemed on the payroll of the state, for twelve months in crediting retirement service credit for service rendered. For the purposes of this paragraph the comptroller shall define school year by regulation.

2-a. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provision of this section to the contrary, with respect to members of the New York state and local employees' retirement system, a member who is employed by a community college as defined in section six thousand three hundred one of the education law or who is employed by any unit of the state university of New York as defined in section three hundred fifty of the education law, and who is in the classified service as that term is defined in section forty of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college or state university for twelve months in crediting retirement service credit for service rendered.

2-b. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a

political subdivision thereof, or a participating employer.

Notwithstanding any other provision of this section to the contrary, a member of the New York state and local employees' retirement system who is employed by a community college as defined in section six thousand three hundred one of the education law or who is employed by any unit of the state university of New York as defined in section three hundred fifty of the education law, and who is in the unclassified service of the civil service as defined in subdivisions (h) and (i) of section thirty-five of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college or state university for twelve months in crediting retirement service credit for service rendered.

3. Notwithstanding any other provision of law, for the purposes of retirement service credit, retirement contribution and final average salary of members of the New York state and local employees' retirement system, a member who has been granted service credit for a period of time for which he or she received compensation or wages shall not lose such credit by virtue of the fact that the employer has subsequently been reimbursed by a workers' compensation carrier with respect to all or a portion of the compensation or wages paid for such period.

4. Notwithstanding any other provision of law, for the purposes of retirement credit, retirement contribution and final average salary under this chapter, the compensation of a member of the New York city employees' retirement system who is either (i) a Triborough bridge and tunnel member as defined in section six hundred four-c of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five or as defined in section six hundred four-c of this article as added by chapter ninety-six of the laws of nineteen hundred ninety-five or to whom article sixteen of this chapter is applicable, or (ii) a New York city transit authority member as defined in section six hundred four-b of this article, for the period during which he or she receives a workers' compensation benefit shall be deemed to be the full compensation or salary such employee would have earned or been entitled

to receive had he or she not received the workers' compensation benefit. During the period of time a member receives payment of such workers' compensation benefit, such member shall be deemed on the payroll in full status for the aforementioned purposes.

b. Previous service.

1. A member shall be eligible to obtain retirement credit hereunder for previous service with a public employer if retirement credit had previously been granted for such service or if such service which would have been creditable in one of the public retirement systems of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, at the time such service was rendered, if the individual had been a member of such retirement system and the member has rendered a minimum of two years of credited service after July first, nineteen hundred seventy-six or after last rejoining a public retirement system, if later; provided, however, retirement credit may be granted for service which predates the date of entry into the retirement system if such service is otherwise creditable and the member satisfied the minimum service requirements set forth in this subdivision and was rendered by an employee of a public employer during which employment he was ineligible to join a public retirement system provided that such public employer was participating in a public retirement system of the state at the time of such employment, or is so participating at the time that such credit for such previous service is being sought.

2. Previous service credit shall not be granted unless such member applies therefor and repays the amount refunded by a public retirement system of the state for service rendered after July first, nineteen hundred seventy-six together with interest through the date of repayment at the rate of five percent per annum compounded annually and three percent of the wages earned for service prior to that date together with interest from July first, nineteen hundred seventy-six through the date of payment at the rate of five percent per annum compounded annually and three percent of the wages earned for service which predates the date of entry into the retirement system together with interest at the rate of five percent per annum compounded annually from the date of such service

until the date of payment. Anything in this paragraph to the contrary notwithstanding, in order to obtain credit for previous service, members who first join the New York state teachers' retirement system on or after January first, two thousand ten shall pay three and one-half percent of wages earned for service which predates the date of entry into the retirement system together with interest at the rate of five percent per annum compounded annually from the date of such service until the date of payment. Anything in this paragraph to the contrary notwithstanding, in order to obtain credit for previous service, members who first join a public retirement system of the state on or after April first, two thousand twelve shall pay six percent of wages earned for service which predates the date of entry into the retirement system together with interest at the rate of five percent per annum compounded annually from the date of such service until the date of payment.

* b-1. Employer pick-up of contributions in respect of previous service. Notwithstanding any other provision of law, any member of the New York city teachers' retirement system eligible to purchase credit for previous service with a public employer pursuant to subdivision b of this section, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement. Such agreement shall set forth the amount of previous service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of such agreement.

* NB Effective until notice of ruling by Internal Revenue Service per ch. 627/2007 §22

* b-1. Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member of the New York city teachers' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement

system, the New York state and local employees' retirement system, the New York state and local police and fire retirement system and the New York city fire department pension fund eligible to purchase credit for previous service with a public employer pursuant to subdivision b of this section or to purchase credit for military service pursuant to article twenty of this chapter, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the member's retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of such agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22 -- expires per ch. 691/2004 §8

c. Creditable service. Other than previous service, a member shall only be eligible to obtain credit for active service with a participating employer; provided, however, military service with the federal government may be credited pursuant to section two hundred forty-three of the military law up to a maximum of four years.

d. To facilitate administration of the provisions of this section the head of a retirement system may make interpretations of the provisions of this section which are consistent with the intent of this section, but such interpretations shall not take effect unless publicly promulgated.

f. Notwithstanding any other provision of law, any member of the New York state and local employees' retirement system who is subject to the provisions of this article and who is employed by a school district, a

board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section four thousand two hundred one of the education law, or a school district as enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven as amended to date, shall have their service credit for service rendered on or after January first, nineteen hundred ninety determined by dividing the number of days worked in a school year by one hundred eighty. For the purpose of this section a school year will begin on July first and end the following June thirtieth. No more than one year of service may be credited during any such fiscal year. Credit for service rendered before January first, nineteen hundred ninety shall be determined in the same manner if a person eligible for such benefit shall file the appropriate application with the state comptroller on or before August second, nineteen hundred ninety-six and, within five years of filing such application, make payment for all costs necessary to finance the receipt of such service credit.

g. The provisions of paragraph one of subdivision a of this section shall not apply to members of the New York city employees' retirement system or the New York city board of education retirement system who are subject to the provisions of this article. The crediting of service for such members of such retirement systems shall be governed by the applicable provisions of subdivision c of section 13-638.4 of the administrative code of the city of New York, and other applicable provisions of such code and of the rules and regulations of such board of education retirement system.

h. Notwithstanding any other provision of law to the contrary, a New York city revised plan member shall not receive service credit for any undocumented sick leave that may be credited toward terminal leave.

§ 610. Options. a. Until the effective date of retirement a member may elect to receive the actuarial equivalent of the retirement allowance at the time of retirement, in the form of a smaller retirement allowance payable to such member for life and one of the following optional

settlements;

Option one. Upon the member's death, a retirement allowance in an amount equal to that paid to the member shall be paid for life to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement.

Option two. Upon the member's death, a retirement allowance of seventy-five percent or less (measured in increments of twenty-five percent) of the amount paid to such member shall be paid for life to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement.

Option three. A five-year certain option under which payment is made to the member for life but is guaranteed for a minimum of five years following retirement. Such payments shall continue to a person as he shall nominate by written designation, duly acknowledged and filed with the retirement system, for the unexpired balance of the five-year guaranteed period. If said beneficiary should predecease him, the commuted value of any installments due during the unexpired balance of the five-year guaranteed period shall be paid in a single sum to a duly designated contingent beneficiary or if none exists to the legal representative of the member. Should a beneficiary who has commenced receipt of the payments die before the said guaranteed minimum period, the commuted value of any installments due during the unexpired balance of the five-year guaranteed period shall be paid in a single sum to a duly designated contingent beneficiary or if none exists, to the legal representative of said deceased primary beneficiary.

Option four. A ten-year certain option under which payment is made to the member for life but is guaranteed for a minimum of ten years following retirement. Such payments shall continue to a person as he shall nominate by written designation, duly acknowledged and filed with the retirement system, for the unexpired balance of the ten-year guaranteed period. If said beneficiary should predecease him, the commuted value of any installments due during the unexpired balance of

the ten-year guaranteed period shall be paid in a single sum to a duly designated contingent beneficiary or if none exists to the legal representative of the member. Should a beneficiary who has commenced receipt of the payments die before the said guaranteed minimum period, the commuted value of any installments due during the unexpired balance of the ten-year guaranteed period shall be paid in a single sum to a duly designated contingent beneficiary or if none exists to the legal representative of said deceased primary beneficiary.

Option five. Upon the member's death, a retirement allowance in an amount equal to fifty percent or one hundred percent of that paid to the member shall be paid for life to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement. Upon the death, prior to the death of the member, of said person so nominated, the member shall begin receiving, in lieu of the allowance then payable, an allowance equal in amount to that which would have been payable if no optional modification of the retirement allowance were in effect.

a-1. A member of the New York state teachers' retirement system or the New York state and local employees' retirement system who retires pursuant to the provisions of this article, may elect, in lieu of the options set forth in subdivision a of this section, the following optional settlement:

Alternative Option. The actuarial equivalent of the member's retirement allowance at the time of retirement, in the form of a smaller retirement allowance payable to such member for life and some other benefit or benefits paid either to the member or to such person or persons as he shall nominate, provided such other benefit or benefits, together with such smaller allowance, shall be certified by the actuary of the appropriate retirement system to be of equivalent actuarial value to his retirement allowance and shall be approved by the head of such retirement system and provided further that nothing herein shall require such retirement system to pay a benefit in violation of paragraph nine of subsection a of section four hundred one of the Internal Revenue Code of 1986, as amended, 26 U.S.C. §401(a)(9).

b. No option hereunder shall be permitted whereby the member would receive less than fifty percent of the actuarial equivalent of the retirement allowance without optional modification during such member's life expectancy. Provided, however, the preceding sentence shall not apply if the surviving beneficiary is the member's spouse.

c. The mortality and interest rates used in determining options under this article shall be those in effect for the public retirement system on the date of retirement.

d. Notwithstanding any other provision of this section, with respect to the New York state employees' retirement system:

1. The comptroller, for reasonable cause, shall have power to extend the time for the election of an option, for a period or periods which shall expire not later than sixty days immediately after the effective date of a member's retirement; and

2. If the member is incompetent, his spouse or the committee of his property, or if he is a conservatee, his spouse or the conservator of his property, may elect on the member's behalf a retirement option as provided for in subdivision a of this section.

e. Notwithstanding any other provision of this section, a member of the New York state teachers' retirement system at the time of retirement may elect an option until the first payment on account of any benefit becomes normally due.

* f. Notwithstanding any other provision of this article, an option selection previously filed by a member or retired member subject to the provisions of this section may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever is later.

* NB There are 2 sb f's

* f. Notwithstanding any other provision of this article, an option selection previously filed by a member or retired member of the New York city teachers' retirement system or the New York city board of education retirement system subject to the provisions of this section may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever date is later.

* NB There are 2 sb f's

§ 611. Optional retirement program. a. Any optional retirement program authorized by state law which, on the day before the effective date of this article, would be available to an eligible employee subject to the provisions of article eleven of this chapter in lieu of joining a public retirement system of the state, will continue to be available to eligible employees subject to this article during the period this article is in effect.

c. Nothing herein contained shall be construed as permitting an employee who previously elected coverage under an optional retirement program to elect coverage under a public retirement system of the state.

§ 612. Vesting. a. Except as provided in subdivision a-1 of this section, a member who has five or more years of credited service, upon termination of employment, other than a member who is entitled to a deferred vested benefit pursuant to any other provision of this article, shall be entitled to a deferred vested benefit at normal retirement age computed in accordance with the provisions of section six hundred four of this article. Except as provided in subdivision a-1 of this section, a member of a teachers' retirement system or the New York state and local employees' retirement system who has five or more years of

credited service, upon termination of employment shall be entitled to a deferred vested benefit prior to normal retirement age, but no earlier than age fifty-five, computed in accordance with the provisions of subdivision i of section six hundred three of this article as amended by section eight of part B of chapter five hundred four of the laws of two thousand nine. Anything to the contrary notwithstanding, a member of a public retirement system of the state who first became a member of such system on or after April first, two thousand twelve must have at least five years of credited service in order to qualify for a deferred vested benefit under this section; such member shall not be entitled to such benefit prior to the member's attainment of age sixty-three; and such deferred vested benefit shall be computed pursuant to subdivision b-1 of section six hundred four of this article.

a-1. Notwithstanding the provisions of subdivision a of this section or any other provision of law to the contrary, (i) a member of the New York city teachers' retirement system who holds a position represented by the recognized teacher organization for collective bargaining purposes, who became subject to the provisions of this article after the effective date of this subdivision, and who has five or more years of credited service, or (ii) a member of the New York city board of education retirement system who holds a position represented by the recognized teacher organization for collective bargaining purposes, who became subject to the provisions of this article after the effective date of this subdivision, and who has five or more years of credited service, other than such a member of either of such retirement systems who is entitled to a deferred vested benefit pursuant to any other provision of this article, shall, upon termination of employment, be entitled to a deferred vested benefit at normal retirement age computed in accordance with the provisions of section six hundred four of this article. Notwithstanding the provisions of subdivision a of this section or any other provision of law to the contrary, a member of the New York city teachers' retirement system who holds a position represented by the recognized teacher organization for collective bargaining purposes, who became subject to the provisions of this article after the effective date of this subdivision, and who has five or more years of credited service, shall, upon termination of

employment, be entitled to a deferred vested benefit prior to normal retirement age, but no earlier than age fifty-five, computed in accordance with the provisions of subdivision i of section six hundred three of this article, provided, however, that any such member of either of such retirement systems who is a New York city revised plan member shall be required to have at least five years of credited service in order to be eligible for a deferred vested benefit, such member shall not be entitled to payability of such benefit prior to attainment of age sixty-three and such deferred vested benefit shall be computed pursuant to subdivision b-1 of section six hundred four of this article.

b. In no event shall the vested retirement allowance payable without optional modification be less than the actuarial equivalent of the total which results from the member's contributions accumulated with interest at five percent per annum compounded annually to the date of retirement.

§ 613. Member contributions. * a. 1. Except as provided by paragraph two of this subdivision, members shall contribute three percent of annual wages to the retirement system in which they have membership, except that beginning April first, two thousand thirteen for members who first become members of a public retirement system of the state on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) preceding such

current plan year as follows:

- (i) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;
- (ii) members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;
- (iii) members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;
- (iv) members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and
- (v) members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first, except for members of New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) in which such member has established membership in a public retirement system of the state, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system, New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) between April first, two

thousand twenty-two and April first, two thousand twenty-six, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments or compensation earned for extracurricular programs or any other pensionable earnings paid in addition to the annual base wages.

The head of each retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

2. A member of the New York city employees' retirement system who is eligible to be a participant in the twenty-five-year and age fifty-five retirement program, as defined by paragraph five of subdivision a of section six hundred four-b of this article shall contribute two percent of annual wages to such system effective on the starting date of the elimination of additional member contributions, as defined in an election made pursuant to paragraph ten of subdivision e of section six hundred four-b of this article, except that beginning April first, two thousand thirteen for members who first become members of the New York city employees' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) preceding such current plan year as follows:

(i) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(ii) members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;

(iii) members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;

(iv) members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and

(v) members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) in which such member has established membership in the New York city employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of, New York city employees' retirement system, on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) between April first, two thousand twenty-two and April first, two thousand twenty-six, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

* NB Effective until October 1, 2026

* a. 1. Except as provided by paragraph two of this subdivision, members shall contribute three percent of annual wages to the retirement

system in which they have membership, except that beginning April first, two thousand thirteen for members who first become members of a public retirement system of the state on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) preceding such current plan year as follows:

- (i) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;
- (ii) members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute three and one-half per centum of annual wages;
- (iii) members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall contribute four and one-half per centum of annual wages;
- (iv) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute five and three-quarters per centum of annual wages; and
- (v) members with wages greater than one hundred thousand dollars per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first, except for members of New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year

shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) in which such member has established membership in a public retirement system of the state, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system, New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) between April first, two thousand twenty-two and April first, two thousand twenty-eight, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year, except that beginning on and after October first, two thousand twenty-six, for members of the New York state and local employees' retirement system, the New York city employees' retirement system other than those enrolled in a plan established pursuant to section six hundred four-c of this article, as originally enacted by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five, and members of the New York city board of education retirement system, who first became members of such systems on or after April first, two thousand twelve, the contributions in any current plan year (April first to March thirty-first, except for members of the New York city employees' retirement system and the New York board of education retirement system, plan year shall mean January first through December thirty-first) shall be determined by reference to the base wages of such member in the second plan year (April first to March thirty-first, except for members of the New York city employees' retirement system and the New York city board of education retirement

system, plan year shall mean January first through December thirty-first) preceding such current plan year as follows:

(A) members with wages of seventy-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(B) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute four per centum of annual wages;

(C) members with wages greater than one hundred thousand dollars per annum but not more than one hundred twenty-five thousand dollars per annum shall contribute five and one-quarter per centum of annual wages; and

(D) members with wages greater than one hundred twenty-five thousand dollars per annum shall contribute five and three-quarters per centum of annual wages.

Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but from April first, two thousand twenty-two through March thirty-first, two thousand twenty-eight shall not include any overtime payments or compensation earned for extracurricular programs or any other pensionable earnings paid in addition to the annual base wages.

The head of each retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

2. A member of the New York city employees' retirement system who is eligible to be a participant in the twenty-five-year and age fifty-five retirement program, as defined by paragraph five of subdivision a of section six hundred four-b of this article shall contribute two percent of annual wages to such system effective on the starting date of the elimination of additional member contributions, as defined in an election made pursuant to paragraph ten of subdivision e of section six hundred four-b of this article, except that beginning April first, two thousand thirteen for members who first become members of the New York city employees' retirement system on or after April first, two thousand

twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) preceding such current plan year as follows:

- (i) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;
- (ii) members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute three and one-half per centum of annual wages;
- (iii) members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall contribute four and one-half per centum of annual wages;
- (iv) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute five and three-quarters per centum of annual wages; and
- (v) members with wages greater than one hundred thousand dollars per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) in which such member has established membership in the New York city employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of, New York city employees' retirement system, on or after April first, two thousand twelve shall contribute for any plan year (April first to

March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) between April first, two thousand twenty-two and April first, two thousand twenty-eight, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year.

Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

* NB Effective October 1, 2026

b. Notwithstanding any other provision of law except as provided in section six hundred thirteen-b of this article, except as provided in section six hundred thirteen-a of this article, a member shall not be permitted to borrow any portion of the contributions which are subject to this section.

c. Notwithstanding any other provision of law to the contrary, a person whose membership in a public retirement system has terminated other than as a result of transfer, retirement or death, or a member of a public retirement system who is not vested and not entitled to any other benefit from such system under this article, and who no longer is employed by a participating employer of such public retirement system in a position upon which his or her membership is based, may withdraw his or her member contributions by filing a written demand for withdrawal of contributions and membership pursuant to rules and regulations promulgated by the public retirement system of which he or she is a member. Upon the death of a person whose membership previously terminated due to lack of credited service and who did not withdraw his or her member contributions, or upon the death of a member, provided a death benefit pursuant to section six hundred seven of this article is not paid, the member contributions of such person shall be refunded to such person as he or she shall have nominated to receive a death benefit by written designation duly executed and filed with the public

retirement system or, in the absence of such designation, to his or her estate. For purposes of such refunds, interest shall be credited at the rate of five percent per annum compounded annually to the date of termination of membership. Provided, however, if a death benefit is paid pursuant to section six hundred seven of this article, such benefit shall be in lieu of the refund of such contributions pursuant to this subdivision, however, in no event shall such death benefit be less than the amount payable pursuant to this subdivision. Notwithstanding the above, or any other provision of law to the contrary, a member may, upon separation from service of the state or a participating employer, withdraw his or her member contributions pursuant to the applicable provision of law until such date as such individual has accrued ten years of credited service in such system. However, the withdrawal of contributions pursuant to this section by an individual who has accrued at least five years of creditable service shall terminate his or her membership and all rights in such retirement system in the same manner as withdrawal of contributions would terminate the membership of an individual who has not attained vested status. Nothing in this section shall be construed as permitting an individual who has accrued at least ten years of credit in a retirement system to withdraw member contributions.

** d.* 1. Notwithstanding any other provision of law, each participating employer shall pick up the member contributions required on and after the effective date of this subdivision to be made under this section by its employees, or required to be made for the purchase of credit for previous service by its employees pursuant to an irrevocable payroll deduction agreement under subdivision b-1 of section six hundred nine of this article, and shall do so by reducing the salary of each of its employees to which this section, or subdivision b-1 of section six hundred nine of this article, is applicable by that amount which each such employee is required to contribute under this section, or subdivision b-1 of section six hundred nine of this article. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees under this section, or subdivision b-1 of section six hundred nine of this article, and shall be treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code.

* NB Effective until notice of ruling by Internal Revenue Service per ch. 627/2007 §22

* 1. Notwithstanding any other provision of law, each participating employer shall pick up the member contributions required on and after the effective date of this subdivision to be made under this section by its employees, or required to be made for the purchase of credit for previous service or military service by its employees pursuant to an irrevocable payroll deduction agreement under subdivision b-1 of section six hundred nine of this article, and shall do so by reducing the salary of each of its employees to which this section, or subdivision b-1 of section six hundred nine of this article, is applicable by that amount which each such employee is required to contribute under this section, or subdivision b-1 of section six hundred nine of this article. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees under this section, or subdivision b-1 of section six hundred nine of this article, and shall be treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code.

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22

2. Each participating employer of any employee (subject to this article) who, in lieu of joining a public retirement system of the state, elected an optional retirement program to which their employers are thereby required to contribute, including, but not limited to, an election under the provisions of subdivision three-a or eight-a of section three hundred ninety of the education law, shall pick up the employee contributions thereto which would otherwise be mandatory under the provisions of state law and shall do so by reducing the salary of such employee by the amount of employee contributions to such optional retirement program which would otherwise be mandatory under the provisions of state law. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees and shall be treated as employer contributions in determining income tax treatment under section 414 (h) of the internal revenue code.

3. With the exception of federal income tax treatment, the employee contributions picked up or paid pursuant to paragraph one or two of this subdivision and the additional member contributions picked up pursuant to paragraph five of this subdivision shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

4. The provisions of this subdivision d shall not apply to a member of the New York city employees' retirement system who is a member of the uniformed correction force or of the uniformed force of the department of sanitation, as defined in subdivisions thirty-nine and sixty-two of section 13-101 of the administrative code of the city of New York.

* 5. (i) Notwithstanding any other provision of law to the contrary, each participating employer:

(a) shall, in the case of a member who is a participant in the twenty-five-year early retirement program (as defined in paragraph ten of subdivision a of section six hundred four-c of this article), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision d of such section six hundred four-c; and

(b) shall, in the case of a member who is a participant in the age fifty-seven retirement program (as defined in paragraph three of subdivision b of section six hundred four-d of this article), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision f of such section six hundred four-d.

(ii) An amount equal to the amount of additional contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision d of section six hundred four-c of this article or subdivision f of section six hundred four-d of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the applicable provisions of subdivision d of section six hundred four-c of this article or subdivision f of section six hundred four-d of this article.

* NB There are 2 par 5's

* 5. The Triborough bridge and tunnel authority shall, in the case of a bridge and tunnel member (as defined in paragraph one of subdivision a of this section) who is a participant in the twenty-year/age fifty retirement program (as defined in paragraph four of subdivision a of section six hundred four-c of this article), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph two of subdivision e of such section six hundred four-c (not including any additional member contributions due for any period prior to the first full payroll period referred to in such paragraph two of such subdivision e), and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph two would otherwise require such deductions.

* NB There are 2 par 5's

6. For the purpose of determining the retirement system rights, benefits and privileges of any bridge and tunnel member (as defined in paragraph one of subdivision a of this section) who is a participant in the twenty-year/age fifty retirement program (as defined in paragraph

four of subdivision a of section six hundred four-c of this article), the additional member contributions of such participant picked up pursuant to paragraph five of this subdivision shall be deemed to be and treated as a part of such member's additional member contributions under paragraphs one and two of subdivision e of such section six hundred four-c.

* 7. (i) The city of New York shall, in the case of a dispatcher member (as defined in paragraph one of subdivision a of section six hundred four-e of this article) who is a participant in the twenty-five year retirement program (as defined in paragraph four of subdivision a of such section six hundred four-e), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraphs one and two of subdivision e of such section six hundred four-e (not including any additional member contributions due for any period prior to the first full payroll period referred to in such paragraph three of such subdivision e), and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three would otherwise require such deductions.

(ii) An amount equal to the amount of additional contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-e of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the

applicable provisions of subdivision e of section six hundred four-e of this article.

(v) With the exception of federal income tax treatment, the additional member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter, or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* There are 2 par 7's

* 7. (i) The city of New York shall, in the case of an EMT member (as defined in paragraph one of subdivision a of section six hundred four-e of this article) who is a participant in the twenty-five year retirement program (as defined in paragraph four of subdivision a of such section six hundred four-e), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraphs one and two of subdivision e of such section six hundred four-e (not including any additional member contributions due for any period prior to the first full payroll period referred to in such paragraph three of such subdivision e), and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three would otherwise require such deductions.

(ii) An amount equal to the amount of additional contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-e of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the

Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the applicable provisions of subdivision e of section six hundred four-e of this article.

(v) With the exception of federal income tax treatment, the additional member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter, or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* NB There are 2 par 7's

* 8. (i) The city of New York shall, in the case of a deputy sheriff member (as defined in paragraph one of subdivision a of section six hundred four-f of this article) who is a participant in the twenty-five year retirement program (as defined in paragraph four of subdivision a of such section six hundred four-f), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraphs one and two of subdivision e of such section six hundred four-f (not including any additional member contributions due for any period prior to the first full payroll period referred to in such paragraph three of such subdivision e), and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three would otherwise require such deductions.

(ii) An amount equal to the amount of additional contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-f of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the applicable provisions of subdivision e of section six hundred four-f of this article.

(v) With the exception of federal income tax treatment, the additional member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter, or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* NB There are 3 par 8's

* 8. The city of New York shall, in the case of an automotive member, (as defined in paragraph one of subdivision a of section six hundred four-g of this article) who is a participant in the twenty-five year/age fifty retirement program (as defined in paragraph four of subdivision a of section six hundred four-g of this article), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph two of subdivision e of such section six hundred four-g (not including any additional member contributions due for any period prior to the first full payroll period referred to in such paragraph two of such subdivision e), and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph two would otherwise require

such deductions.

* NB There are 3 par 8's

* 8. (i) The city of New York shall, in the case of a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), parking control specialist, school safety agent, campus peace officer or taxi and limousine inspector member who is a participant in the twenty-five year retirement program, pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraphs one and two of subdivision e of section six hundred four-e of this article, not including any additional member contributions due for any period prior to the first full payroll period referred to in paragraph three of such subdivision, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three would otherwise require such deductions.

(ii) An amount equal to the amount of additional contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member, as such compensation would be in the absence of a pick up program applicable to him or her hereunder, and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-f of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414 (h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the applicable provisions of subdivision e of section six hundred four-f of this article.

(v) With the exception of federal income tax treatment, the additional

member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter, or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* NB There are 3 par 8's

9. For the purpose of determining the retirement system rights, benefits and privileges of any automotive member (as defined in paragraph one of subdivision a of section six hundred four-g of this article) who is a participant in the twenty-five year/age fifty retirement program (as defined in paragraph four of subdivision a of section six hundred four-g of this article), the additional member contributions of such participant picked up pursuant to paragraph five of this subdivision shall be deemed to be and treated as a part of such member's additional member contributions under paragraphs one and two of subdivision e of such section six hundred four-g.

* 10. (i) The city of New York shall, in the case of a police communications member (as defined in paragraph one of subdivision a of section six hundred four-h of this article) who is a participant in the twenty-five year retirement program (as defined in paragraph four of subdivision a of such section six hundred four-h), pick up and pay to the retirement system of which such participant is a member, all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraphs one and two of subdivision e of such section six hundred four-h (not including any additional member contributions due for any period prior to the first full payroll period referred to in such paragraph three of such subdivision e), and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three would otherwise require such deductions.

(ii) An amount equal to the amount of additional contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member (as such compensation would be in the

absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-h of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the applicable provisions of subdivision e of section six hundred four-h of this article.

(v) With the exception of federal income tax treatment, the additional member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter, or any similar provision of law which limits the salary base of computing retirement benefits payable by a public retirement system.

* NB Expires per 682/2003 §13 sb (b)

* 11. (i) Notwithstanding any other provision of law to the contrary, each participating employer shall, in the case of a member who is a participant in the age fifty-five retirement program (as defined in paragraph seven of subdivision a of section six hundred four-i of this article), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision e of such section six hundred four-i.

(ii) An amount equal to the amount of additional member contributions picked up pursuant to this paragraph shall be deducted by such employer

from the compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-i of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the provisions of subdivision e of section six hundred four-i of the article.

(v) With the exception of federal income tax treatment, the additional member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this paragraph shall be construed as superseding the provisions of section four hundred thirty-one of this chapter or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* NB Expires per 19/2008 §15 sb (c)

* 12. (i) The city of New York shall, in the case of a fire protection inspector member (as defined in paragraph one of subdivision a of section six hundred four-j of this article) who is a participant in the twenty-five year retirement program (as defined in paragraph four of subdivision a of such section six hundred four-j), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraphs one and two of subdivision e of such section six hundred four-j of this article (not including any additional member contributions due for any period

prior to the first full payroll period referred to in such paragraph three of such subdivision e), and shall effect such pick up in each and every payroll of such participant for each and every payroll period with respect to which such paragraph three would otherwise require such deductions.

(ii) An amount equal to the amount of additional contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member (as such compensation would be in the absence of a pick up program applicable to them hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-j of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits, and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the applicable provisions of subdivision e of section six hundred four-j of this article.

(v) With the exception of federal income tax treatment, the additional member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding the provisions of section four hundred thirty-one of this chapter, or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* NB Effective only so long as certain conditions are met (see chapter 55 of 2024 Part EE, § 5 (a))

** NB Expires per ch. 782/88 § 8

e. Interest shall accrue from the date of death until the date of payment on accumulated member contributions refunded pursuant to this section upon the death of a member, where no death benefit is payable on account of such death. Interest shall accrue at the rate provided in subdivision one of section three-a of the general municipal law.

f. Anything in subdivision a of this section to the contrary notwithstanding a member employed as a uniformed court officer or peace officer in the unified court system who first joins the New York state and local employees' retirement system on or after January first, two thousand ten shall contribute four percent of annual wages to the New York state and local employees' retirement system, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

1. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

2. members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;

3. members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;

4. members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and

5. members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-eight, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but from April first, two thousand twenty-two through March thirty-first, two thousand twenty-eight shall not include any overtime payments.

The head of the New York state and local employees' retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

g. Members who first join the New York state teachers' retirement system on or after January first, two thousand ten shall contribute three and one-half percent of annual wages to the New York state teachers' retirement system, except that beginning April first, two thousand thirteen for members who first become members of the New York state teachers' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (July first to June thirtieth) shall be determined by reference to the wages of such member in the second plan year (July first to June thirtieth) preceding such current plan year as follows:

1. members with wages of forty-five thousand dollars per annum or less

shall contribute three per centum of annual wages;

2. members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;

3. members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;

4. members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and

5. members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (July first to June thirtieth) in which such member has established membership in the New York state teachers' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the contribution rate at which a member of the New York state teachers' retirement system with a date of membership on or after April first, two thousand twelve shall contribute for plan years (July first to June thirtieth) between July first, two thousand twenty-two and July first, two thousand twenty-eight, such rate shall be determined by reference to the member's annual base wages in the second plan year (July first to June thirtieth) preceding such current plan year. Annual base wages from April first, two thousand twenty-two through March thirty-first, two thousand twenty-eight shall not include compensation earned for extracurricular programs or any other pensionable earnings paid in addition to the annual base wages.

The head of the New York state teachers' retirement system shall promulgate such regulations as may be necessary and appropriate with

respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

h. Notwithstanding any other provision of law to the contrary, a participant may use any excess basic member contributions to offset a deficit of additional member contributions as required pursuant to sections six hundred four-a, six hundred four-b, six hundred four-c, as added by chapter 96 of the laws of 1995, six hundred four-c, as added by chapter 472 of the laws of 1995, six hundred four-d, six hundred four-e, as added by chapter 576 of the laws of 2000, six hundred four-e, as added by chapter 577 of the laws of 2000, six hundred four-f, as added by chapter 559 of the laws of 2001, six hundred four-f, as added by chapter 582 of the laws of 2001, six hundred four-g, and six hundred four-h of this article. The use of basic member contributions to offset a deficit of additional member contributions does not affect the contributions' tax designation pursuant to section 414(h) of the Internal Revenue Code.

§ 613-a. Loans to members of a teachers' retirement system. a. 1. A member of a teachers' retirement system in active service who has credit for at least one year of member service may borrow, no more than once during each twelve-month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section six hundred thirteen of this article (including interest credited at the rate set forth in subdivision c of section six hundred thirteen compounded annually) and not less than one thousand dollars.

2. A member of the New York state teachers' retirement system who first joins such system on or after July first, two thousand twenty-two in active service and who has credit for at least one year of member service may borrow, no more than once during each twelve-month period, an amount, not less than one thousand dollars and which would not cause the balance owed pursuant to this section, including any amounts borrowed then outstanding, to exceed (i) fifty percent of the member's total contributions made pursuant to section six hundred thirteen of

this article (including interest credited at the rate set forth in subdivision c of this section compounded annually); or (ii) fifty thousand dollars, whichever is less.

b. An amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid in equal installments which shall be made by the borrower directly to the retirement board or through regular payroll deduction. Such installments shall be in such amount as the retirement board shall approve; however, they shall be at least (i) two percent of the member's contract salary, and (ii) sufficient to repay the amount borrowed, together with interest on unpaid balances thereof within a period not in excess of five years. In the event of default such retirement board shall be authorized to collect such payments due from the employer of such member through payroll deduction and such member shall forfeit all future entitlement to borrow from the retirement system until the unpaid balance of the loan outstanding at the time of default is fully paid. Such retirement board, at any time, may accept payments on account of any loan in addition to the installments fixed for repayment thereof. All payments of principal and interest, at the lower of the rates set forth in either subdivision c of section six hundred thirteen of this article or subdivision c of this section, made by the member shall be credited to his or her account as principal or interest. Any additional interest paid by the member shall be credited to the appropriate fund of the retirement system.

c. The rate of interest payable upon loans made pursuant to this section shall: (i) for members of the New York state teachers' retirement system, be one percent less than regular interest pursuant to paragraph (b) of subdivision nine of section five hundred one of the education law, however in no event shall the rate be less than the rate set forth in subdivision c of section six hundred thirteen of this article; (ii) for members of the New York city teachers' retirement system, be one percent less than the regular interest rate established pursuant to paragraph (d) of subdivision twenty-two of section 13-501 of the administrative code of the city of New York for such system, however in no event shall the rate be less than the rate set forth in subdivision c of section six hundred thirteen of this article. Whenever

there is a change in the interest rate it shall be applicable to loans made or renegotiated after the date of such change in the interest rate.

d. A service charge payable upon loans made pursuant to this section shall be set by the retirement board in an amount sufficient to cover the cost to the retirement system of administering the loans. Such charge shall be paid to the retirement system when the loan is made or in equal installments over the period the loan is outstanding. The amount of the service charge shall be credited to the fund from which administrative expenses are paid.

e. Each loan made pursuant to this section shall be insured against the death of the member in an amount equal to the amount of the loan outstanding at any given time; with the exception that until thirty days have elapsed after the making thereof, no part of the loans shall be insured. Such insurance shall be provided by the retirement board through the retirement system. Upon the death of the member, the amount of insurance so payable shall be credited to his or her account. The premium payable by the member for such insurance shall be set by the retirement board at a rate not to exceed one percent of the amount loaned.

Such premium shall be prorated to July first next and shall be paid to the retirement system in equal installments over the period of the loan. Thereafter, a premium not to exceed one percent per annum of the present value of the outstanding loan as of July first shall be paid in the same manner each succeeding year until such loan is repaid or the member is retired.

The retirement board shall, at least annually, review such premium rate, and may, in its discretion, increase or reduce the premium, modify the terms or conditions of coverage, or discontinue the insurance of loans. In no event shall this subdivision impose any obligation upon the retirement board to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms or conditions.

f. Such a retirement board is authorized to establish special funds as may be necessary to carry out the provisions of subdivisions d and e of this section.

g. Whenever a member of such a retirement system, for whom a loan is outstanding, becomes entitled to the return of his or her contributions because of withdrawal from such system or because of death, the amount of any loan outstanding on such date including accrued interest as provided in subdivision c of this section shall be construed to already have been returned to such member and the refund of contributions to which he shall then be entitled shall be the net amount of such contributions together with interest thereon pursuant to subdivision c of section six hundred thirteen of this article.

h. Notwithstanding the provisions of subdivision b of section six hundred twelve of this article, whenever a member of such a retirement system, for whom a loan is outstanding, retires, the retirement allowance payable without optional modification shall be reduced by a life annuity which is actuarially equivalent to the amount of the outstanding loan (all outstanding loans shall continue to accrue interest charges until retirement), such life annuity being calculated utilizing the interest rate on thirty-year United States treasury bonds as of January first of the calendar year of the effective date of retirement and the mortality tables for options available under section six hundred ten of this article. Notwithstanding the preceding sentence, in the case of the New York state teachers' retirement system, commencing January first, two thousand four, the interest rate on ten year United States treasury obligations as of January first of the calendar year of the effective date of retirement shall be used. Notwithstanding the preceding sentence, in the case of the New York state teachers' retirement system, commencing January first, two thousand sixteen, the average annual interest rate on ten year United States treasury obligations for the days during the calendar year that precedes the calendar year in which the retirement becomes effective shall be used.

i. Such a retirement board is authorized to adopt such rules and

regulations as it finds to be necessary in administering the provisions of this section. Anything in this section notwithstanding, the retirement board of the New York state teachers' retirement system is authorized to adopt rules and regulations permitting a loan at any time prior to retirement to a member who is not in active service, provided such loan would otherwise be permitted under this section and under applicable provisions of the Internal Revenue Code relating to loans from pension plans.

j. Such a retirement board shall discharge any evidence of a loan to member pursuant to this subdivision upon the satisfaction of the obligation of the member thereunder.

k. The retirement system shall have no right to bring suit in any court against any member to enforce the amount due under this section and the retirement system's sole remedy upon death, retirement or withdrawal shall be to offset the amount outstanding including interest from the member's account or other benefits payable to or on behalf of the member as provided in this section.

§ 613-b. Loans to members of certain retirement systems. a. For the purposes of this section, the term "retirement board" or "board" shall mean the head of the retirement system as defined in subdivision f of section six hundred one of this article.

b. 1. A member of the New York state and local employees' retirement system, the New York city employees' retirement system or the New York city board of education retirement system in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section six hundred thirteen (including interest credited at the rate set forth in subdivision c of such section six hundred thirteen compounded annually) and not less than one thousand dollars.

2. A member of the New York state and local employees' retirement

system who first joins such system on or after January first, two thousand eighteen in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount, not less than one thousand dollars and which would not cause the balance owed pursuant to this section, including any amounts borrowed then outstanding, to exceed (i) fifty percent of the member's total contributions made pursuant to section six hundred thirteen of this article (including interest credited at the rate set forth in subdivision c of such section six hundred thirteen compounded annually); or (ii) fifty thousand dollars, whichever is less.

c. An amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid in equal installments which shall be made by the borrower directly to the retirement board or through regular payroll deduction. Such installments shall be in such amount as the retirement board shall approve; however, they shall be at least (a) two percent of the member's contract salary, and (b) sufficient to repay the amount borrowed, together with interest on unpaid balances thereof within a period not in excess of five years. In the event of default, such retirement board shall be authorized to collect such payments due from the employer of such member through payroll deduction and such member shall forfeit all future entitlement to borrow from the retirement system until the unpaid balance of the loan outstanding at the time of default is fully paid. Such retirement board, at any time, may accept payments on account of any loan in addition to the installments fixed for repayment thereof. All payments of principal and interest at the lower of the rates set forth in either subdivision c of section six hundred thirteen of this article or subdivision d of this section made by the member shall be credited to his or her account as principal or interest. Any additional interest paid by the member shall be credited to the appropriate fund of the retirement system.

d. The rate of interest payable upon loans made pursuant to this section shall: (1) for members of the New York state and local employees' retirement system, be one percent less than the valuation rate of interest adopted for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section six

hundred thirteen of this article; (2) for members of the New York city employees' retirement system, be one percent less than the regular interest rate established pursuant to subdivision (c) of section 13-101.12 of the administrative code of the city of New York for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section six hundred thirteen of this article; and (3) for members of the New York city board of education retirement system, be one percent less than the regular interest rate established pursuant to subparagraph four of paragraph (b) of subdivision sixteen of section twenty-five hundred seventy-five of the education law for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section six hundred thirteen of this article. Whenever there is a change in the interest rate, it shall be applicable or loans made or renegotiated after the date of such change in the interest rate.

e. A service charge payable upon loans made pursuant to this section shall be set by the retirement board in an amount sufficient to cover the cost to the retirement system of administering the loans. Such charge shall be paid to the retirement system when the loan is made or in equal installments over the period the loan is outstanding. The amount of the service charge shall be credited to the fund from which administrative expenses are paid.

f. Each loan made pursuant to this section shall be insured against the death of the member in an amount equal to the amount of the loan outstanding at any given time; with the exception that until thirty days have elapsed after the making thereof, no part of the loans shall be insured. Such insurance shall be provided by the retirement board through the retirement system. Upon the death of the member, the amount of insurance so payable shall be credited to his or her account. The premium payable by the member for such insurance shall be set by the retirement board at a rate not to exceed one percent of the amount loaned.

Such premium shall be prorated to July first next, or such other date fixed by the retirement board as is appropriate, and shall be paid to

the retirement system in equal installments over the period of the loan. Thereafter, a premium not to exceed one percent per annum of the present value of the outstanding loan as of July first, or such other appropriate date, shall be paid in the same manner each succeeding year until such loan is repaid or the member is retired.

The retirement board shall, at least annually, review such premium rate, and may, in its discretion, increase or reduce the premium, modify the terms or conditions of coverage, or discontinue the insurance of loans. In no event shall this subdivision impose any obligation upon the retirement board to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms or conditions.

g. Such a retirement board is authorized to establish such special funds as may be necessary to carry out the provisions of subdivisions e and f of this section.

h. Whenever a member of such a retirement system, for whom a loan is outstanding, becomes entitled to the return of his or her contributions because of withdrawal from such system or because of death, the amount of any loan outstanding on such date, including accrued interest as provided in subdivision d of this section, shall be construed to already have been returned to such member and the refund of contributions to which he shall then be entitled shall be the net amount of such contributions together with interest thereon pursuant to subdivision c of section six hundred thirteen of this article.

i. Notwithstanding the provisions of subdivision b of section six hundred twelve of this article, whenever a member of such a retirement system, for whom a loan is outstanding, retires, the retirement allowance payable without optional modification shall be reduced by a life annuity which is actuarially equivalent to the amount of the outstanding loan (all outstanding loans shall continue to accrue interest charges until retirement), such life annuity being calculated utilizing the interest rate on thirty year United States treasury bonds as of January first of the calendar year of the effective date of

retirement and the mortality tables for options available under section six hundred ten of this article. A retiree of the New York city employees' retirement system, board of education retirement system of the city of New York, or the New York state and local employees' retirement system whose benefit has been so reduced may repay the outstanding balance of the loan at any time. Benefits payable after the repayment of the loan shall not be subject to the actuarial reduction required by this subdivision.

j. Such a retirement board is authorized to adopt such rules and regulations as it finds to be necessary in administering the provisions of this section.

k. Such a retirement board shall discharge any evidence of a loan to a member pursuant to this section upon the satisfaction of the obligation of the member thereunder.

l. The retirement board shall have no right to bring suit in any court against any member to enforce the amount due under this section, and the retirement system's sole remedy upon death, retirement or withdrawal shall be to offset the amount outstanding including interest from the member's account or other benefits payable to or on behalf of the member as provided in this section.

§ 614. Effect of other laws. a. Any other provision of this chapter, of the education law or of the administrative code of the city of New York, or rules and regulations thereunder, relating to the reemployment of retired members, transfer of members and reserves between systems and procedural matters including but not limited to filing requirements, termination of membership, duties of participating employers, and actuarial assumptions shall apply to members covered under this article during the duration thereof unless inconsistent herewith, or with rules and regulations adopted for the implementation of this article.

b. Notwithstanding any other provision of law:

(i) If a person who last became a member of a public retirement system

of the state before July first, nineteen hundred seventy-three retires, such person shall, upon reentry to membership in a public retirement system of the state, be subject to all retirement rights, privileges and obligations which would pertain to such person had he reentered membership in such retirement system on June thirtieth, nineteen hundred seventy-three.

(ii) If a person who last became a member of a public retirement system of the state after June thirtieth, nineteen hundred seventy-three but prior to July first, nineteen hundred seventy-six retires such person shall, upon reentry to membership in a public retirement system of the state, be subject to all retirement rights, privileges and obligations which would pertain to such person had he reentered membership in such retirement system on June thirtieth, nineteen hundred seventy-six.

(iii) The provisions of this article shall not be construed to repeal, amend or modify any provisions of law or rules or regulations in effect on June thirtieth, nineteen hundred seventy-six issued thereunder which govern the reemployment of retired persons by public employers.

(iv) Notwithstanding any other provision of law, any member of a public retirement system who retired after having last entered such system prior to July first, nineteen hundred seventy-three, and thereafter reentered service and joined or rejoined a public retirement system prior to April first, nineteen hundred seventy-seven, shall be entitled to all the rights, benefits and privileges and subject to all the obligations set forth in any law or laws relating to public retirement systems to which he would have been subject or entitled had he reentered membership in such retirement system on June thirtieth, nineteen hundred seventy-three.

(v) Notwithstanding any other provision of law, any member of a public retirement system who retired after having last entered such system after June thirtieth, nineteen hundred seventy-three and prior to July first, nineteen hundred seventy-six and thereafter reentered service and joined or rejoined a public retirement system prior to April first, nineteen hundred seventy-seven, shall be entitled to all the rights, benefits and privileges and subject to all the obligations set forth in any law or laws relating to public retirement systems to which he would have been subject or entitled had he reentered membership in such

retirement system on June thirtieth, nineteen hundred seventy-six.

§ 615. Duration. Notwithstanding any other provisions of this chapter or of any other law, the provisions of article fourteen of this chapter shall no longer apply to members to whom this article applies on the date article fifteen of this chapter becomes effective, provided, however, any member who has retired pursuant to the provisions of article fourteen of this chapter before the effective date of this article or any beneficiary of such a member or a beneficiary of a member who dies before the effective date of this article and who is entitled to a death benefit pursuant to article fourteen of this chapter shall receive such benefits pursuant to the provisions of article fourteen of this chapter, except as provided pursuant to the provisions of section six hundred seventeen of this article.

§ 616. Transfer of membership. Any employee of the board of education of the city of New York who is a member of the New York city employees' retirement system may elect to transfer membership to the New York city board of education retirement system. Any election pursuant to this section shall be made no later than the one hundred eightieth day next succeeding the date on which the provisions hereof become effective, by filing a written notice thereof with the administrative head of the New York city employees' retirement system and the New York city board of education retirement system and, once made and filed, such election shall be irrevocable. Where an employee of the board of education becomes a member of the New York city board of education retirement system pursuant to this section the New York city employees' retirement system shall make a transfer of reserves, contributions, and credits to the New York city board of education retirement system in the manner required by section forty-three of this chapter.

§ 617. Recalculation of benefits. a. Notwithstanding any other provision of law, any person who has retired pursuant to the provisions of article fourteen of this chapter on or before August thirty-first,

nineteen hundred eighty-three, whether for service retirement or for ordinary or accidental disability retirement, may elect to have his or her retirement benefits recalculated pursuant to this article, from such person's date of retirement; provided, however, such person was not employed in a position excluded from the application of this article by paragraphs one through five of subdivision a of section six hundred of this article. The recalculation of benefits shall be based upon the option selection originally filed for retirement.

b. To elect the recalculation, such person shall, on or before December thirty-first, nineteen hundred ninety-nine, file a request for such recalculation with the appropriate retirement system in the form and manner prescribed by the head of such retirement system.

ARTICLE 15-A

BENEFIT LIMITATIONS; FEDERAL INTERNAL REVENUE CODE

Section 620. Benefit limitations.

§ 620. Benefit limitations. 1. Notwithstanding any other law to the contrary, for all members of a public retirement system to which the state or a municipality contributes who join on or after January first, nineteen hundred ninety, the benefits payable shall be subject to the limitations set forth in section four hundred fifteen of the Internal Revenue Code.

2. Notwithstanding any other law to the contrary, for all members of a public retirement system to which the state or a municipality contributes who joined prior to January first, nineteen hundred ninety, the benefits payable shall be subject to the greater of the following limitations as provided in paragraph ten of subdivision (b) of section four hundred fifteen of the Internal Revenue Code:

a. the limitations set forth in section four hundred fifteen of the Internal Revenue Code, or

b. the accrued benefit of the member without regard to any benefit increases pursuant to a plan amendment adopted after October fourteenth, nineteen hundred eighty-seven.

3. Notwithstanding the foregoing, any benefit which has been limited by either the dollar or compensation limitations of section 415 of the Internal Revenue Code shall be increased for cost-of-living adjustments of such limitations pursuant to such section and the applicable regulations thereunder, provided, however, the benefit shall not exceed the benefit otherwise payable but for the limitations of Internal Revenue Code section 415.

4. Notwithstanding any other law, the limitation year of the New York state teachers' retirement system for the purposes of section 415 of the Internal Revenue Code shall be the period commencing on the first day of July of each year and ending on the thirtieth day of June next following.

5. Notwithstanding any other law, the limitation year of the New York state and local employees' retirement system and the New York state and local police and fire retirement system for the purposes of section 415 of the Internal Revenue Code shall be the period commencing on the first day of April of each year and ending on the thirty-first day of March next following.

6. Notwithstanding any other law, the limitation years of the New York city employees' retirement system, the New York city teachers' retirement system, the New York city board of education retirement system, the New York city police pension fund and the New York city fire department pension fund for the purposes of section 415 of the Internal Revenue Code shall be the period commencing on the first day of July of each year and ending on the thirtieth day of June next following.

ARTICLE 15-B

COMPENSATION LIMITATIONS: FEDERAL INTERNAL REVENUE CODE

Section 630. Compensation limitations.

§ 630. Compensation limitations. 1. In addition to any other applicable limitations on compensation provided by law, and notwithstanding any other law to the contrary unless otherwise permitted pursuant to subdivision four of this section, the amount of compensation of a member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system which may be taken into account under the rules of such system for plan years beginning on or after April first, nineteen hundred ninety-six shall not exceed the OBRA '93 annual compensation limit.

2. In addition to any other applicable limitations on compensation provided by law, and notwithstanding any other law to the contrary unless otherwise permitted pursuant to subdivision four of this section, the amount of compensation of a member of the New York state teachers' retirement system, New York city employees' retirement system, New York city teachers' retirement system, New York city police pension fund, New York city fire department pension fund, or New York city board of education retirement fund which may be taken into account under the law relating to such system for plan years beginning on or after July first, nineteen hundred ninety-six shall not exceed the OBRA '93 annual compensation limit.

3. In addition to any other applicable limitations on compensation provided by law, and notwithstanding any other law to the contrary unless otherwise permitted pursuant to subdivision four of this section, the amount of compensation of a participant in the education department optional retirement program pursuant to part five of article three of the education law or a participant in the state university optional retirement program pursuant to article eight-B of the education law or the city university optional retirement program pursuant to article one hundred twenty-five-A of the education law which may be taken into account under the law relating to such program for plan years beginning on or after January first, nineteen hundred ninety-six shall not exceed the '93 OBRA annual compensation limit.

4. Notwithstanding the provisions of subdivisions one, two and three of this section, in the case of an "eligible member" of the New York state and local employees' retirement system, New York state and local police and fire retirement system, New York state teachers' retirement system, New York city employees' retirement system, New York city teachers' retirement system, New York city police pension fund, New York city fire department pension fund, New York city board of education retirement fund, education department optional retirement program, state university optional retirement program, and city university optional retirement program the OBRA '93 annual compensation limit shall not apply to the extent the amount of compensation taken into account would be reduced below the amount which would be allowed to be taken into account under the law relating to such system or program as in effect on the first day of July, nineteen hundred ninety-three.

5. For the purposes of subdivision four of this section, an "eligible member" of the New York state and local employees' retirement system or New York state and local police and fire retirement system shall be a member who last joined or rejoined such system prior to April first, nineteen hundred ninety-six; an "eligible member" of the New York state teachers' retirement system, New York city employees' retirement system, New York city teachers' retirement system, New York city police pension fund, New York city fire department pension fund, or New York city board of education retirement fund shall be a member who last joined or rejoined such system prior to the first day of July, nineteen hundred ninety-six; and an "eligible member" of the education department optional retirement program, the state university optional retirement program, or city university optional retirement program shall be a participant who, as applicable, last joined or rejoined or last elected such program prior to the first day of January, nineteen hundred ninety-six.

6. For the purposes of this section and any other reference in law to the limitation under section 401(a)(17) of the Internal Revenue Code of 1986, the "OBRA '93 annual compensation limit" shall be the amount allowed to be taken into account pursuant to section 401(a)(17) of the Internal Revenue Code of 1986, 26 USC § 401(a)(17), as amended pursuant

to section 13212 of the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, 107 Stat. 312, or as hereinafter may be amended. For plan years beginning on or after January first, nineteen hundred ninety-four, the annual compensation of each member or participant taken into account under the law applicable to such system or program shall not exceed one hundred fifty thousand dollars, as adjusted by the Commissioner of Internal Revenue for increases in the cost of living pursuant to section 401(a)(17) of the Internal Revenue Code of 1986. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve months, over which compensation is determined (the "compensation period") beginning in such calendar year. If a determination period consists of fewer than twelve months, the OBRA '93 annual compensation limit shall be the applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve. Further, if compensation for any prior determination period is taken into account in determining, as applicable, a member's or participant's benefits accruing in a current plan year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For the purpose of the prior sentence, for determination periods before the first day of the first plan year beginning on or after the first day of January, nineteen hundred ninety-four, the OBRA '93 annual compensation limit is one hundred fifty thousand dollars.

ARTICLE 15-C

COMPENSATION LIMITATIONS: FEDERAL INTERNAL REVENUE CODE

Section 640. Excess Benefit Plan.

§ 640. Excess Benefit Plan. 1. Notwithstanding any other law to the contrary, the New York state and local employees' retirement system and the New York state and local police and fire retirement system are hereby authorized to establish an excess benefit plan. The plan or plans shall constitute a qualified governmental excess benefit plan pursuant

to section 415(m) of the Internal Revenue Code.

2. Such plan or plans are created for the purpose of providing benefits to members of the New York state and local employees' retirement system and the New York state and local police and fire retirement system, whose benefits would otherwise be limited by section 415 of the Internal Revenue Code.

3. The comptroller, as administrative head of the New York state and local employees' retirement system and the New York state and local police and fire retirement system, is authorized to promulgate rules and regulations necessary to implement the provisions of this article including the actual terms and conditions of the excess benefit plan or plans.

ARTICLE 15-D
**BENEFITS FOR CERTAIN MEMBERS WHO RE-ENTER
PUBLIC SERVICE**

Section 645. Benefits for certain members who re-enter public service.

§ 645. Benefits for certain members who re-enter public service. 1. As used in this article the term "public retirement system" shall mean the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York state and local police and fire retirement system, the New York city employees' retirement system, the New York city teachers' retirement system, the New York city board of education retirement system, the New York city police pension fund, or the New York city fire department pension fund.

2. Notwithstanding any other provision of law, any person other than a retiree of a public retirement system, who previously was a member of a public retirement system and whose membership in such public retirement system ceased by reason of (i) insufficient service credit, (ii) withdrawal of accumulated contributions, or (iii) withdrawal of membership, upon rejoining such public retirement system or another

public retirement system, shall be deemed to have been a member of his or her current retirement system during the entire period of time commencing with and subsequent to the original date of such previous ceased membership, provided that such person (a) makes application therefor to the administrative head of his or her current public retirement system, and (b) repays the amount refunded, if any, at the time such previous membership ceased, together with interest at the rate of five percent per annum compounded annually from the date of such refund through the date of repayment. Upon such reinstatement of date of membership, such member shall be entitled to all the rights, benefits and privileges to which he or she would have been entitled had his or her current membership begun on such original date of membership except that, solely for the purposes of granting retirement credit to members of a public retirement system other than the New York city teachers' retirement system for service credited during such previous ceased membership where such was in a public retirement system other than the member's current retirement system, such previously credited service shall be deemed to be prior service, not subsequent service.

Furthermore, any such member whose original date of membership was prior to July first, nineteen hundred seventy-three shall be entitled to all the rights, benefits and privileges to which he or she would have been entitled had he or she been in active service on June thirtieth, nineteen hundred seventy-three. Any contribution made to the public retirement system pursuant to article fourteen or fifteen of this chapter by a member who rejoined his or her current system on or after July twenty-seventh, nineteen hundred seventy-six shall not be refunded.

3. Anything in this section to the contrary notwithstanding, any member or retiree of a public retirement system who, prior to reinstatement to an original date of membership prior to the twenty-seventh day of July, nineteen hundred seventy-six, had obtained credit for previous service from such system pursuant to article fourteen or fifteen of this chapter shall be entitled to have any amounts paid by such member to such system for the purposes of obtaining such credit refunded to such member with interest at the rate of five percent per annum from the date of the last payment to such system.

4. The provisions of this article shall be applicable to a person who is, on the date this article becomes effective, or who subsequent to such date becomes, a member of a public retirement system.

ARTICLE 16

REDUCTION IN RETIREMENT AGE FOR CERTAIN MEMBERS

Section 650. Application.

651. Reduction of retirement age.

652. Definitions.

§ 650. Application. This article shall apply to a member of the New York city employees' retirement system (i) who holds the position of bridge and tunnel officer, sergeant or lieutenant with the Triborough bridge and tunnel authority, and has received or receives an appointment to at least one such position from a competitive civil service list; or (ii) who holds the position of assistant bridge and tunnel maintainer, bridge and tunnel maintainer, senior bridge and tunnel maintainer or laborer with the Triborough bridge and tunnel authority, provided, however, that this article shall not apply to a New York city revised plan member (as defined in subdivision m of section six hundred one of this chapter).

§ 651. Reduction of retirement age. a. A member described in section six hundred fifty of this article may, subject to the provisions of subdivision b of this section (and notwithstanding the provisions for benefit reduction contained in subdivision a of section four hundred forty-two and subdivision c of section five hundred four of this chapter), retire without reduction of his or her service retirement benefit prior to the attainment of the normal retirement age in accordance with the following schedule:

(i) For each full year of covered employment occurring prior to January first, nineteen hundred seventy-one, his or her normal retirement age shall be reduced by six months; and

(ii) For each full year of covered employment occurring prior to

January first, two thousand nine which is subsequent to December thirty-first, nineteen hundred seventy, his or her normal retirement age shall be reduced by four months.

b. Provided however, that nothing herein:

(i) Shall permit a member of Tier one to retire, other than for disability, prior to the attainment of age fifty, or a member of Tier two, three or four to retire, other than for disability, prior to the attainment of age fifty-five; and

(ii) Shall be construed to affect any other condition or requirement of any general, special or local law.

§ 652. Definitions. a. The term "normal retirement age" shall mean age fifty-five for a member of Tier one, and age sixty-two for a member of Tier two, three or four.

b. The term "covered employment" shall mean paid service as a bridge and tunnel officer, sergeant, lieutenant, assistant bridge and tunnel maintainer, bridge and tunnel maintainer, senior bridge and tunnel maintainer or laborer with the Triborough bridge and tunnel authority by a member described in section six hundred fifty of this article.

c. The term "Tier one member" shall mean a member whose benefits are prescribed by chapter one of title thirteen of the administrative code of the city of New York and who is not subject to the provisions of article eleven, fourteen or fifteen of this chapter.

d. The term "Tier two member" shall mean a member whose benefits are prescribed by chapter one of title thirteen of the administrative code of the city of New York and who is subject to the provisions of article eleven of this chapter.

e. The term "Tier three member" shall mean a member who is subject to the provisions of article fourteen of this chapter.

f. The term "Tier four member" shall mean a member who is subject to

the provisions of article fifteen of this chapter.

* ARTICLE 17

SURVIVORS BENEFITS

Section 655. Survivor's benefit.

656. Managerial/confidential survivor's benefit.

657. Survivor's benefit for retired state employees.

* NB (There are 2 art. 17's)

§ 655. Survivor's benefit. 1. a. The term "state employee" as used in this section shall mean a full time employee or officer of the state, whose salary is paid directly by the state.

b. For the limited purposes of this section: (1) the term "state employee" as used in this section include a full time employee or officer of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York; (2) the payroll from which such employees are paid shall be deemed to be a state payroll; and (3) such employees shall be deemed to be paid directly by the state.

2. A survivor's benefit shall be payable upon the death of a state employee who has been a state employee for ninety or more days and who dies before the effective date of retirement, provided that such employee:

a. Was on the state payroll for ninety or more days of the one hundred twenty days immediately prior to his or her death, or

b. Had at least one year of service as a state employee and died while

on the payroll following his or her return from an authorized leave of absence, or

c. Had at least one but less than five years of service as a state employee since last entering state service and died while off the payroll and while on an authorized leave of absence, provided such person was not otherwise gainfully employed since ceasing to be on the state payroll, and provided such person was on the state payroll within six months prior to his or her death, or

d. Had five or more years of service as a state employee since last entering state service, and died while off the payroll and while on an authorized leave of absence, provided such employee was not otherwise gainfully employed since ceasing to be on the state payroll, and provided that such person was on the state payroll within one year prior to his or her death.

e. For the purpose of determining eligibility for benefits under this section, previous service rendered as an employee of an authority or commission established under the public authorities law shall be credited to a state employee as state service, provided such authority or commission has in effect, at the time of death of such employee, a provision for a survivor's benefit which is substantially equivalent to that provided in this section and in which previous state service is credited to authority or commission employees toward eligibility for such survivor's benefit.

f. For the purposes of this subdivision, a state employee holding a position having an annual salary payable over a period of less than twelve months shall be considered to be on the payroll during any period in which he would otherwise be on the payroll if the annual salary of his position were paid over the full twelve months. For purposes of paragraphs c and d of this subdivision, an employee shall not be deemed to have been gainfully employed solely on account of the performance of military duty in any capacity in the armed forces of the United States or of any reserve thereof or in the national guard.

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for a survivors benefit, a member shall be considered to have died while on the state payroll provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five.

Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

3. The survivor's benefit shall be payable from the survivor's benefit fund. The survivor's benefit shall be an amount which, when added to the ordinary death benefit provided under any public pension plan to which the deceased state employee belonged, equals one-half the annual rate of compensation of the state employee as of the date he or she was last on the payroll prior to death; provided, however, that such survivor's benefit, when added to any ordinary death benefit payable from a public pension plan to which such employee belonged, shall be at least two thousand dollars and shall not exceed ten thousand dollars. Any benefit, other than an accidental death benefit, payable by a public pension plan in lieu of the ordinary death benefit shall, for the purposes of this section, be deemed to be an ordinary death benefit. The portion of any ordinary death benefit attributable to the reserve-for-increased-take-home-pay shall be excluded in computing the survivor's benefit.

4. The survivor's benefit payable under this section shall be paid to such person or persons as the state employee shall have last nominated

to receive the ordinary death benefit of the retirement system or pension plan supported by funds of the state of which such employee last became a member, or if such employee did not nominate such a beneficiary, or if such beneficiary has died, or if the employee was not a member of such a retirement system or pension plan, to the person last specifically designated by such employee to receive the survivor's benefit under this section, on a form prescribed by the department of audit and control and filed with the department or agency in which such employee was last employed prior to death. In the event such a designated beneficiary does not survive such employee, or if a beneficiary was not designated, the survivor's benefit shall be payable to the estate of the state employee or as provided in section thirteen hundred ten of the surrogate's court procedure act.

5. Notwithstanding any other provisions of this section, in the case of a state employee on whose account an accidental death benefit is payable from a public pension plan to which the employee belonged, and regardless of the length of service of the deceased employee, the survivor's benefit shall be two thousand dollars and shall be payable to the person or persons first receiving the accidental death benefit.

6. Notwithstanding any other provision of this section, in the case of an employee who enters or re-enters state service at sixty-five years of age or over, the survivor's benefit shall not be payable unless such employee has completed at least one year of continuous state service following such entry or re-entry.

7. There is hereby established in the custody of the state comptroller a special fund to be known as the survivor's benefit fund. Such fund shall consist of such moneys as may be appropriated thereto by the legislature and all other moneys received by such fund from any other source pursuant to law. The fund shall be used exclusively for the purpose of making survivor's benefit payments pursuant to this section and section six hundred fifty-six and section six hundred fifty-seven of this article. Moneys of the fund shall be paid out on the audit and warrant of the state comptroller on vouchers approved by such state comptroller.

8. If the survivor's benefit is paid for a deceased employee or officer whose salary or compensation is paid from a special or administrative fund other than the general fund or other than an income fund of the state university or other than the mental hygiene services fund, the cost of such benefit shall be charged against such other fund or funds. If the amounts appropriated or allocable from such special or administrative fund or funds are insufficient for such purpose, the director of the budget may allocate such additional sums from such fund or funds as may be necessary therefor; provided however, that no transfer shall be made between two or more of such funds. Such amounts shall be paid, at such times as required, to the state comptroller and shall be credited to the survivor's benefit fund.

9. The state comptroller shall prescribe such regulations as may be required for the effective administration and implementation of the provisions of this section including the establishment of criteria for determining eligibility of state employees. The state comptroller may enter into agreement with other agencies to perform such duties as may be necessary to implement the provisions of this section.

10. The provisions of this section shall apply to state employees who die on or after April first, nineteen hundred sixty-two and before July first, nineteen hundred seventy-four.

§ 656. Managerial/confidential survivor's benefit. 1. a. The term "managerial/confidential employee" as used in this section shall mean a full time employee or officer in the executive branch of the state whose position has been designated managerial or confidential pursuant to article fourteen of the civil service law, an employee covered by section nineteen of the correction law, an employee in the professional service in the state university who is designated, stipulated or excluded from negotiating units as managerial or confidential as defined pursuant to article fourteen of the civil service law, an employee covered by paragraph (a) of subdivision one of section two hundred fifteen of the executive law or who has been excluded from

representation rights under such article pursuant to rules and regulations of the public employment relations board, or who is a civilian state employee of the division of military and naval affairs in the executive department whose position is not in, or is excluded from representation rights in, any recognized or certified bargaining unit, and whose salary is paid directly by the state, judges and justices of the unified court system and nonjudicial employees thereof not in collective negotiating units. Managerial/confidential employees may be considered state employees for the purposes of section six hundred fifty-five of this article provided, however, an employee shall be eligible for the greater of the benefits afforded by this section or section six hundred fifty-five of this article and shall in no event receive benefits pursuant to both such sections.

b. "Full time" as used in this section shall mean employment on a work schedule of at least twenty hours per week and at a rate of salary of at least that of the hiring rate of the M/C-3 pay grade or equivalent.

2. A survivor's benefit shall be payable upon the death of a managerial/confidential employee who has served as a managerial/confidential employee for thirty or more days exclusive of days of leave and dies before the effective date of retirement provided that such employee:

a. Was on the state payroll as a managerial/confidential employee for thirty or more days of the sixty days immediately prior to his or her death, or

b. Had at least one year of service as a managerial/confidential employee and died while on the payroll following his or her return from an authorized leave of absence, or

c. Had at least one but less than five years of service as a managerial/confidential employee since last entering state service and died while off the payroll and while on an authorized leave of absence, provided such person was not otherwise gainfully employed since ceasing to be on the state payroll, and provided such person was on the state

payroll as a managerial/confidential employee within six months prior to his or her death, or

d. Had five or more years of service as a managerial/confidential employee since last entering state service and died while off the payroll and while on an authorized leave of absence, provided such person was not otherwise gainfully employed since ceasing to be on the state payroll, and provided such person was on the state payroll as a managerial/confidential employee within one year prior to his or her death.

e. For the purpose of determining eligibility for benefits under this section, previous service rendered as an employee in a position designated as managerial or confidential pursuant to article fourteen of the civil service law of an authority or commission established under the public authorities law shall be credited to a state employee as state service, provided such authority or commission has in effect, at the time of death of such employee, a provision for a survivor's benefit which is substantially equivalent to that provided in this section and in which previous state service is credited to authority or commission employees toward eligibility for such survivor's benefit.

f. For the purposes of this subdivision, a managerial/confidential employee holding a position having an annual salary payable over a period of less than twelve months shall be considered to be on the payroll during any period in which he or she would otherwise be on the payroll if the annual salary of that position were paid over the full twelve months. For purposes of paragraphs c and d of this subdivision, an employee shall not be deemed to have been gainfully employed solely on account of the performance of military duty in any capacity in the armed forces of the United States or of any reserve thereof or in the national guard.

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for a survivors benefit, a member shall be considered to have died while on the state payroll provided such member was on such payroll or was on the payroll

in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five.

Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

3. The survivor's benefit shall be payable from the survivor's benefit fund established pursuant to subdivision seven of section six hundred fifty-five of this article. The survivor's benefit shall be an amount which when added to the ordinary death benefit provided under any public pension plan to which the deceased managerial/confidential employee belonged, equals the annual rate of compensation of the managerial/confidential employee as of the date he or she was last on the payroll prior to death; provided, however, that such survivor's benefit, when added to any ordinary death benefit payable from a public pension plan to which such employee belonged, shall not exceed the lesser of fifty thousand dollars or if the ordinary death benefit payable is reduced due to the age of a member five times the ordinary death benefit for which the employee is eligible or, if no such benefit is payable, would have been eligible had he or she remained in state service for one year. Any benefit, other than an accidental death benefit, payable by a public pension plan in lieu of the ordinary death benefit shall, for the purposes of this section, be deemed to be an ordinary death benefit.

4. The survivor's benefit payable under this section shall be paid to such person or persons as the managerial/confidential employee shall have last nominated to receive the ordinary death benefit of the

retirement system or pension plan supported by funds of the state of which such employee last became a member, or if such employee did not nominate such a beneficiary, or if such beneficiary has died, or if the employee was not a member of such a retirement system or pension plan, to the person last specifically designated by such employee to receive the survivor's benefit under this section on a form prescribed by the department of audit and control and filed with the department or agency in which such employee was last employed prior to death. In the event such a designated beneficiary does not survive such employee, or if a beneficiary was not designated, the survivor's benefit shall be payable to the estate of the state employee or as provided in section thirteen hundred ten of the surrogate's court procedure act.

5. Notwithstanding any other provisions of this section, in the case of a managerial/confidential employee on whose account an accidental death benefit is payable from a public pension plan to which the employee belonged, and regardless of the length of service of the deceased employee, the survivor's benefit shall be five thousand dollars and shall be payable to the person or persons first receiving the accidental death benefit.

6. If the survivor's benefit is paid for a deceased employee or officer whose salary or compensation is paid from a special or administrative fund other than the general fund or other than an income fund of the state university or other than the mental hygiene services fund, the cost of such benefit shall be charged against such other fund or funds. If the amounts appropriated or allocable from such special or administrative fund or funds are insufficient for such purpose, the director of the budget may allocate such additional sums from such fund or funds as may be necessary therefor; provided however, that no transfer shall be made between two or more of such funds. Such amounts shall be paid at such times as required, to the state comptroller and shall be credited to the survivor's benefit fund.

7. The state comptroller shall prescribe such regulations as may be required for the effective administration and implementation of the provisions of this section including the establishment of criteria for

determining eligibility of managerial/confidential employees. The state comptroller may enter into agreements with other agencies to perform such duties as may be necessary to implement the provisions of this section.

8. The provisions of this section shall apply to managerial/confidential employees who die on or after October first, nineteen hundred eighty and on or before June thirtieth, nineteen hundred eighty-one.

§ 657. Survivor's benefit for retired state employees. 1. a. The term "retired state employee" as used in this section shall mean a former employee or officer of the state (1) who while in state service retired for any cause from any retirement system or pension plan supported by funds of the state other than the state university optional retirement program of article eight-B of the education law or the education department optional retirement program of article three, part V, of the education law, or (2) who while in state service retired for any cause from either or both such optional retirement programs provided he or she had thereupon attained age fifty-five, or (3) who terminated state service for any cause on or after the attainment of age sixty-two; and who, at the time he or she retired pursuant to subparagraph one or two of this paragraph or terminated service pursuant to subparagraph three of this paragraph, had ten or more years of full time service as a state employee, provided that the ten years' full time service were within the last fifteen years prior to such retirement or termination. For purposes of this section, no person shall be deemed to be or have been an employee or officer of the state or in the state service for any period during which his or her salary was not paid directly by the state, except a person employed in an institution specified in paragraph b of this subdivision or a person employed in an authority or commission specified in paragraph c of this subdivision.

b. For all purposes of this section alone, the state colleges of agriculture, home economics, industrial and labor relations, and veterinary medicine, the state agricultural experiment station at

Geneva, and any other institution or agency under the management and control of Cornell university, as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university, as the representative of the board of trustees of the state university of New York shall be deemed to be the state.

c. For the purpose of determining eligibility for benefits under this section, previous service rendered as an employee of an authority or commission established under the public authorities law shall be credited to a retired state employee as state service, provided such authority or commission has in effect, at the time of retirement of such retired employee, a provision for a survivor's benefit which is substantially equivalent to that provided in this section and in which previous state service is credited to retired authority or retired commission employees toward eligibility for such survivor's benefit.

d. For the purpose of determining eligibility for benefits under this section, no retired state employee who retired prior to October first, nineteen hundred sixty-six shall be eligible for benefits hereunder unless such retiree is a pensioner of the New York state and local employees' retirement system or the New York state and local police and fire retirement system.

2. The amount of a survivor's benefit under this section shall be a lump sum of two thousand dollars, except that where a retired state employee dies while reemployed as provided in subdivision four of this section or dies within thirty days following retirement pursuant to subdivision one of this section, the amount of the survivor's benefit under this section, if any, shall be two thousand dollars less any ordinary death benefit, exclusive of any ordinary death benefit attributable to the reserve-for-increased-take-home-pay, payable on account of the death of such employee under a retirement system or pension plan supported by funds of the state.

3. In addition to the benefit provided pursuant to subdivision two of this section an additional benefit shall be provided on behalf of

retired state employees who retire or terminate their services, as defined by subdivision one of this section, on or after April first, nineteen hundred seventy, except, however, such additional benefits shall be provided on behalf of retired state employees who were members of the state police in a collective negotiating unit consisting of commissioned officers established pursuant to article fourteen of the civil service law who retire or terminate their services, as defined by subdivision one of this section, on or after April first, nineteen hundred seventy-one, and on behalf of retired state employees who were members of the state police in a collective negotiating unit defined in the certification of the public employment relations board dated December twenty-ninth, nineteen hundred seventy in case numbers C-0570 and C-0575 established pursuant to article fourteen of the civil service law who retire or terminate their services, as defined by subdivision one of this section, on or after April first, nineteen hundred seventy-two, of one thousand dollars, except that where such retired state employee dies while reemployed as provided in subdivision five of this section or dies within thirty days following retirement pursuant to subdivision one of this section, the amount of the survivor's benefit under this section, if any, shall be three thousand dollars less any ordinary death benefit, exclusive of any ordinary death benefit attributable to the reserve-for-increased-take-home-pay, payable on account of the death of such employee under a retirement system or pension plan supported by funds of the state in lieu of the survivor's benefits specified in subdivision two of this section.

4. A survivor's benefit under this section shall not be payable in any case in which a survivor's benefit is payable pursuant to section six hundred fifty-five of this chapter.

5. The eligibility for survivor's benefit protection provided by this section of a retired state employee who subsequently reenters state service, or enters the service of a participating employer of a retirement system or pension plan supported by funds of the state, shall continue but only until such employee attains eligibility either for coverage under the survivor's benefit program provided by section six hundred fifty-five of this article or for payment of an ordinary death

benefit of two thousand dollars or more, exclusive of any ordinary death benefit attributable to the reserve-for-increased-take-home-pay, payable on account of the death of such employee under such a retirement system or pension plan. Each time such employee leaves state service, or the service of such a participating employer, and loses the eligibility attained following such entry or reentry, such employee shall again become eligible for payment of a survivor's benefit provided by this section.

6. The survivor's benefit payable under this section shall be paid to such person or persons as the retired state employee shall have last nominated to receive benefits under a retirement option of the retirement system or pension plan supported by funds of the state of which such employee last became a member, or if such employee did not nominate such a beneficiary, or if such beneficiary has died, or if the employee was not a member of such a retirement system or pension plan, to the person last specifically designated by such employee to receive the survivor's benefit under this section on a form prescribed by and filed with the state comptroller. In the event such a designated beneficiary does not survive such employee, or if a beneficiary was not designated, the survivor's benefit shall be payable to the estate of the retired state employee or as provided in section thirteen hundred ten of the surrogate's court procedure act.

7. The survivor's benefit fund provided for by subdivision seven of section six hundred fifty-five of this article shall be the fund from which survivor's benefit payments pursuant to this section shall be paid.

8. The state comptroller shall prescribe such regulations as may be required for the effective administration and implementation of the provisions of this section including the establishment of criteria for determining eligibility for payment under this section. The state comptroller may enter into agreement with other agencies to perform such duties as may be necessary to implement the provisions of this section.

9. a. Every state department or agency shall promptly inform the state

comptroller of the retirement or termination, as defined by subdivision one of this section, of any employee on whose behalf a survivor's benefit under this section may be payable. Such employer shall set forth the relevant state employment record of the employee and such other information as is required by the form to be prescribed by the state comptroller.

b. Every public retirement system or pension plan within the state shall promptly inform the state comptroller of the death of any member on whose behalf a survivor's benefit under this section may be payable. Such system or plan shall set forth the name or names of the beneficiary or beneficiaries, if any, last designated by the member under any retirement option selected and such other information as is required by the form to be prescribed by the state comptroller.

10. A designated beneficiary of every retired state employee who filed a designation of beneficiary form with the state comptroller must file an application with the state comptroller for a survivor's benefit under this section within six months after the death of such employee in order to qualify for the survivor's benefit provided by this section. For good cause shown, the state comptroller may waive this time requirement.

11. The provisions of this section shall apply to retired state employees who retire or terminate their service, as defined by subdivision one of this section, on or before June thirtieth, nineteen hundred seventy-four, provided, however, that nothing herein shall be deemed to apply to any employee who retired on or before September thirtieth, nineteen hundred sixty-six and who died prior to the effective date of this subdivision.

* ARTICLE 17*

ELECTION OF ARTICLE FOURTEEN

Section 700. Election of the provisions of article fourteen by certain members.

* NB There are 2 art. 17's

§ 700. Election of the provisions of article fourteen by certain members. a. This section shall apply to a member of the New York state and local employees' retirement system who is in a title defined in subdivision i of section eighty-nine of this chapter, which title was added to such section on or after January first, nineteen hundred eighty-seven and who joined or rejoined such system on or after July first, nineteen hundred seventy-six.

b. A member may, by filing an election as specified in subdivision c of this section, elect to be subject to article fourteen of this chapter in its entirety and subject to none of the provisions of article fifteen of this chapter.

c. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such member is in a title defined in subdivision i of section eighty-nine of this chapter. The election shall be filed on or before December thirty-first, nineteen hundred eighty-nine or within one year after such person becomes employed in such title, whichever date is later.

ARTICLE 18

PROVISIONS GENERALLY APPLICABLE TO PUBLIC RETIREMENT SYSTEMS

- Section 800. Definitions.
- 801. Transfer rights.
 - 802. Credit for previously credited service.
 - 803. Retroactive membership.
 - 803-a. Correction of benefit errors.
 - 804. Promulgation of rules and regulations.
 - 805. Records.
 - 806. Exclusion.
 - 807. Alternate means of authentication.
 - 808. Preservation of records.
 - 809. Effect and rebuttal of certain medical presumptions pertaining to diseases of the heart.

§ 800. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context.

a. "Public retirement system" shall mean the New York state and local employees' retirement system, the New York state and local police and fire retirement system, New York state teachers' retirement system, New York city employees' retirement system, New York city teachers' retirement system, New York city police pension fund, New York city fire department pension fund and the New York city board of education retirement system.

b. "Employer" or "participating employer" shall mean the state of New York and any other unit of government or organization which makes contributions to a public retirement system on behalf of its employees. Provided however, that the provisions of this article shall not apply to the city of New York until such city enacts a local law adopting this article in its entirety. Until such date (subject to the provisions of section eight hundred six of this article), no member of a public retirement system: (i) who is an employee of the city of New York shall have any rights created by the provisions of this article or (ii) who is not an employee of the city of New York shall have any rights created by this article resulting from any prior employment by the city of New York. For the purposes herein: (i) the "city of New York" shall include: (a) every employer other than a state employer which participates in the New York city employees' retirement system, New York city teachers' retirement system, New York city police pension fund, New York city fire department pension fund or the New York city board of education retirement system, and (b) a city of New York funded college of the state university of New York located within such city, the city of New York libraries subject to section thirty-two of this chapter, and the civilian and uniformed employees described in subdivision sixteen of section twelve hundred four of the public authorities law; and (ii) a "state employer" shall mean the unified court system, the senior colleges of the city university of New York and a public benefit corporation, public corporation or subsidiary corporation a majority of

the members of which are appointed by the governor, designated by virtue of their state office or appointed or designated by any combination of the foregoing.

c. "Head of the retirement system" shall mean the state comptroller, with respect to the state and local employees' retirement system and the state and local police and fire retirement system, and the retirement board of the other public retirement systems.

§ 801. Transfer rights. a. Except as provided in subdivision b of this section, any member of a public retirement system who by reason of simultaneous membership in two public retirement systems, would have been entitled to transfer membership in a public retirement system pursuant to any provision of law, but failed to make a timely election to do so shall be entitled to transfer membership if written notice is given to such system no later than January first, nineteen hundred ninety-eight, or within one year of the enactment of a local law by the city of New York for a member who: (i) is an employee of the city of New York; or (ii) is not an employee of the city of New York, but has prior employment with such city without which he or she would be ineligible for the benefit provided by this section.

b. For a membership occurring prior to April first, nineteen hundred ninety-three pursuant to any provision of law, a public retirement system shall have the authority to grant relief from a failure to transfer such membership if the member would have been eligible to transfer such membership to the system granting relief if he or she had joined the system granting relief on the commencement of employment, provided that the member had been continuously (as defined in paragraph two of subdivision b of section eight hundred three of this article) employed in such employment from the commencement of eligible employment until the member joined the system and the member files written notice with the system no later than January first, nineteen hundred ninety-eight, or within one year of the enactment of a local law by the city of New York for a member who: (i) is an employee of the city of New York; or (ii) is not an employee of the city of New York, but has prior

employment with such city without which he or she would be ineligible for the benefit provided by this section.

c. As a condition for transfer pursuant to subdivisions a and b of this section, the employee must deposit within one year of the filing of the written notice of intention to transfer as provided in subdivision a or b of this section, with the public retirement system of which the employee is a member, an amount equal to the amount withdrawn from the public retirement system of which the employee had been a member with interest thereon as prescribed by the retirement system of which the employee is a member. When such deposit has been made, a calculation and transfer of the reserve on such employee's benefit shall be made.

d. Except as expressly provided herein, the applicable rules relating to the transfer of membership, including the transfer of reserves, shall apply to the transfer of membership permitted hereunder.

e. This section shall not be construed to continue membership in any retirement system.

§ 802. Credit for previously credited service. a. Notwithstanding any ineligibility to obtain credit by reason of a failure to transfer membership in a public retirement system pursuant to any applicable law, retirement credit shall be granted for service which predates the date of membership in a public retirement system after a member has rendered five years of credited service since last joining a public retirement system if:

- (1) such service is otherwise creditable; and
- (2) credit for such service had been granted by another public retirement system; and
- (3) such service is not currently credited in any other public retirement system or any public retirement system in another state or of the federal government.

b. Credit shall not be granted under this section unless such member:

- (1) files, prior to the effective date of retirement, a written

request with the public retirement system from which credit is sought; and

(2) deposits with such system, prior to the effective date of retirement or as such system may allow, the amounts required in order to obtain previous service credit under the member's current membership. If the full amount of payment is not paid to such system, the amount of service credited shall be proportional to the total amount of the payments made.

c. The public retirement system may permit such member to pay such contributions with interest in monthly installments equal or less in number to the number of months of previous service credit granted or as such system may allow. Upon retirement, such member shall not receive credit for any service for which contributions are not paid as provided herein.

d. The granting of previous service credit pursuant to this section shall not affect the individual's date of membership or tier status.

e. This section shall not be construed to diminish, replace or conflict with any other statutory right to obtain credit for previous service.

§ 803. Retroactive membership. a. A public retirement system shall have the authority to grant relief from a failure to file an application for membership in that system in connection with service rendered prior to April first, nineteen hundred ninety-three in accordance with the provisions of this section. If the determination is made by a public retirement system other than the public retirement system of which he or she is a member, such other system shall notify the member's current system of its determination and the retroactive membership resulting from such determination shall be deemed to have been immediately transferred to the member's current system. In such event, the member's current system shall advise such other system of the additional cost resulting from such relief, which shall thereupon be billed and collected by such other system and remitted to the member's current

system.

b. Retroactive membership shall be granted to a member of a public retirement system who was entitled to join a public retirement system prior to the date on which the member actually joined such a system provided that:

(1) the member files a written request for retroactive membership in a public retirement system with the member's current retirement system within three years of the effective date of this article, or within two years of the enactment of a local law by the city of New York for a member who: (i) is an employee of the city of New York; or (ii) is not an employee of the city of New York, but has prior employment with such city, which without the transfer and crediting provisions of this article would render him or her ineligible for retroactive membership under the provisions of this section;

(2) membership shall only be granted retroactively back to the date from which the member has served continuously in a position or positions which would have entitled the member to join a public retirement system. For the purpose of this paragraph (and subdivision b of section eight hundred one of this article), a member shall be considered to have served continuously from the earliest date after which he or she shall have rendered at least twenty days of eligible service during each plan year of such public retirement system, excluding one break in service of not more than one plan year or not more than two plan years when such break in service is attributable to the birth of a child of the member or care for such child or the placement of a child with the member for adoption or foster care, provided that for the limited purposes of this section only, no employment with the city of New York, the board of education of the city of New York or with any employer which participates in the New York city employees' retirement system or the New York city board of education retirement system shall be deemed to be service which would have entitled the member to join a public retirement system, or shall be deemed to be retirement system eligible service, where the person rendering such service would have been deemed by such retirement system prior to May thirty-first, nineteen hundred eighty-eight to be ineligible for membership in such retirement system because he or she was not regularly scheduled to work a sufficient

number of hours per year, or because such employment was being rendered not on a per annum basis, but rather on a per hour basis, a per diem basis or some other basis; and

(3) the employer who employed such member at the time he or she was first eligible to join a public retirement system files with the retirement system an affidavit stating that the relief sought is appropriate because the member did not (i) expressly decline membership in a form filed with the employer; (ii) participate in a procedure explaining the option to join the system in which a form, booklet or other written material is read from, explained or distributed, such form, booklet or written material can be produced and documentation or a notation to the effect that he or she so participated exists; or (iii) participate in a procedure that a reasonable person would recognize as an explanation or request requiring a formal decision by him or her to join a public retirement system. Such affidavit shall also set forth the facts and circumstances giving rise to the request for relief, including but not necessarily limited to dates of employment and the date on which the member was first eligible to join a public retirement system and salary information. The employer shall respond to all requests for such affidavits by a public retirement system. A member seeking to prove that he or she did not participate in a procedure described in clause (ii) or (iii) hereof must do so by substantial evidence. An employer shall establish a review process which shall afford a member an opportunity to appear in person or in writing. If a determination has been made to deny retroactive membership, the employer shall produce an affidavit including a statement of the grounds on which such denial was based. Nothing herein is intended to require a public retirement system to conduct a hearing if one is not customarily held by the system to determine pension rights, privileges or benefits.

c. If a member is entitled to relief pursuant to this section, the public retirement system shall determine the member's date of membership, which shall be the date on which such member would have become a member of such retirement system pursuant to subdivision b of this section.

d. Nothing in this section shall be construed to change or modify the

requirements for filing an application for membership prescribed by the head of the retirement system or by applicable law or to modify the obligations of employers or any public retirement system with respect to informing employees of their right to join a public retirement system or with respect to transmitting their application to such a system.

e. (1) The entire cost of retroactive membership granted pursuant to this section shall be paid by the employer who employed such member at the time he or she was first eligible to join a public retirement system, subject to the limitations provided in paragraph two of this subdivision. For the purposes of this section, the additional cost shall be the increase in the accrued liabilities resulting from relief under this section. At the employer's election, the additional cost to be paid by it may be paid with interest equal to the valuation rate of the member's current system in equal annual installments over a period of either five or ten years.

(2) In the case of an individual who on March thirty-first, nineteen hundred ninety-three was a member of any public retirement system and who, on such date, was employed by an employer other than the employer which employed such member at the time he or she was first eligible to join a public retirement system, costs to such original employer shall not exceed a percentage of the total cost but not greater than one hundred percent of such cost; (a) such percentage to be determined in the case of the New York state and local employees' retirement system and the New York state and local police and fire retirement system by dividing the greater of the amounts calculated under subparagraph (i) or (ii) of this paragraph by the salary used for calculating costs under paragraph one of this subdivision: (i) the annual compensation such member would have earned during the salary period used for calculating costs under this subdivision had such member remained in the original position, as determined by applying annual increases of seven percent from the time of such original twelve month period to the amount of annual compensation such member was actually paid by such employer during the first twelve months of employment or (ii) the amount determined by applying annual increases of seven percent to the amount an individual employed on a full-time basis at the then applicable state minimum wage would have earned during such twelve month period; (b) such

percentage in the case of the New York state teachers' retirement system to be determined by dividing by the member's annualized salary in the year in which the cost under paragraph one of this subdivision is determined, by the following: the member's annualized salary in the plan year in which the member was first eligible to join a public retirement system increased by seven percent per year for each year from the plan year in which the member was first eligible to join a public retirement system to the plan year in which such cost is determined.

f. Notwithstanding any other provision of this section to the contrary, this section shall not apply to any person who received a retroactive membership date pursuant to the provisions of chapter one thousand forty-four of the laws of nineteen hundred eighty-one, chapter five hundred thirty-nine of the laws of nineteen hundred eighty-four, chapter five hundred twenty-two of the laws of nineteen hundred eighty-eight or chapter five hundred twenty-three of the laws of nineteen hundred eighty-eight.

g. A member receiving a retroactive membership date pursuant to subdivision b of this section shall pay to his or her current retirement system those payments, with applicable interest thereon, which would have been made by such member had he or she been a member of such retirement system during the period of service beginning from the date which is being credited pursuant to such subdivision b. For members of a retirement system or pension fund maintained by the city of New York, the granting of any service credit pursuant to this section (1) shall be used only for the purpose of determining the amount of any benefit and not for the purpose of determining eligibility for a benefit and (2) shall not be deemed or construed to create any right for the payment of a pension-providing-for-increased-take-home-pay for such period or to create any liability or responsibility for the funding of such benefit by the city of New York or any other pension obligor or to create any liability or responsibility for the accumulation of a reserve-for-increased-take-home-pay.

h. Anything in this section to the contrary notwithstanding, any member of a public retirement system who, prior to reinstatement to an

original date of membership prior to the twenty-seventh day of July, nineteen hundred seventy-six under section six hundred forty-five of this chapter, is required to pay mandatory arrears under this section and still has an amount due, shall, upon application to the comptroller under the provisions of section six hundred forty-five of this chapter for reinstatement under such section six hundred forty-five, and upon conveying in writing to the comptroller a rescission of their election under this section, thereafter not be required to pay mandatory arrears under this section provided that payments previously made for such arrears shall not be refunded to such member. When a member elects to rescind benefits pursuant to this section and makes application under section six hundred forty-five of this chapter as permitted under this subdivision, such member's reinstated rights, benefits and status in the public retirement system will derive and be defined by such section six hundred forty-five rather than this section.

§ 803-a. Correction of benefit errors. Notwithstanding any other provision of law, rule or regulation to the contrary, if, pursuant to a settlement agreement or court order arising out of a matrimonial or custody action, a member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system or retiree agrees or is ordered to select or change a retirement option or beneficiary and such member or retiree fails to comply with such agreement or order, the comptroller is hereby authorized, at his or her discretion, to change or correct such retirement option or beneficiary consistent with a subsequent order by a court of competent jurisdiction directing the member or retiree to comply with the original agreement or order.

§ 804. Promulgation of rules and regulations. Each public retirement system is authorized to promulgate rules and regulations to implement the provisions of this article.

§ 805. Records. Nothing in this article shall be construed to affect

the authority of a public retirement system to require that evidence of service be based upon records kept in the ordinary course of business.

§ 806. Exclusion. a. A person who was not a member of a public retirement system as of March thirty-first, nineteen hundred ninety-three shall be ineligible for the benefits provided by sections eight hundred one and eight hundred three of this article.

b. This article shall have no application to a retiree or former retiree from a public retirement system.

§ 807. Alternate means of authentication. Notwithstanding any other law, rule or regulation, each public retirement system as defined by subdivision a of section eight hundred of this article is authorized to promulgate rules and regulations to provide for alternate means of authentication in place of any requirement that a filing be duly executed and acknowledged and, consistent with the provisions of the state technology law, to provide for the electronic filing of documents.

§ 808. Preservation of records. a. Notwithstanding any other provision of law, each public retirement system, as defined in subdivision a of section eight hundred of this article, other than the New York state teachers' retirement system, is authorized to reproduce all or any part of its records by any computerized process which accurately produces a digital image of a paper record. Whenever the retirement system shall have so reproduced such records and whenever such reproductions or media have been placed in conveniently accessible files and provision has been made for preserving, examining and using the same, the retirement system may cause the original record which has been so reproduced to be disposed of or destroyed.

b. A duly authorized representative of the retirement system is hereby authorized to certify to the authenticity of any reproduction herein authorized. The retirement system may charge for copies of reproductions

of such records as provided for by applicable law, rules or regulations.

§ 809. Effect and rebuttal of certain medical presumptions pertaining to diseases of the heart. a. This section shall apply to certain applications for disability retirement allowances made by or on behalf of a member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system. It shall apply only to applications that are subject under this chapter to a provision that any condition of impairment of health caused by a disease of the heart, resulting in disability, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident.

b. Notwithstanding any other provision of law to the contrary an application for an accidental disability retirement allowance that is based on a permanent incapacity caused by a disease of the heart, shall not be required to allege or establish:

(1) that the member sustained an accident or other incident related to the performance and discharge of duty; or

(2) that notice was provided thereof.

c. Notwithstanding any other provision of law to the contrary, the presumptions referred to in subdivision a of this section may be rebutted only by competent evidence that the disability is not the natural and proximate result of the performance and discharge of duty.

ARTICLE 19

BENEFIT ENHANCEMENTS

Section 900. Definitions.

901. Election of benefit enhancements.

902. Benefit enhancements.

§ 900. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is

plainly required by the context:

a. "Retirement system" shall mean the New York state and local employees' retirement system and the New York state teachers' retirement system.

b. "State employer" shall mean the executive branch of the state, the senate, the assembly and joint legislative employers.

c. "Participating employer" shall mean an employer, other than a state employer, which participates in a retirement system.

d. "Eligible employee", subject to the limitations of section nine hundred two of this article, shall mean a member of a retirement system who is identified as eligible to receive the benefit enhancements provided for in this article upon election by a state employer pursuant to section nine hundred one of this article; "eligible employee" of a participating employer shall mean all employees, subject to the limitations of section nine hundred two of this article. Notwithstanding any other provision of law to the contrary, the benefits provided herein shall only apply to an eligible employee who is a member of a retirement system as defined by subdivision a of this section.

e. "Active service" shall mean (i) service while being paid on the payroll; (ii) a leave of absence with pay; (iii) other approved leave without pay; and (iv) any period of time between school terms and any time between September first, two thousand and October first, two thousand for a teacher or other employee employed on a school-year basis.

f. "Cessation date" shall mean the beginning date of an eligible employee's first payroll period commencing on or after October first, two thousand, or the effective date as of which such employee becomes eligible for the benefits contained in subdivision b of section nine hundred two of this article, or the date on which the eligible employee attains ten years of membership or, if earlier, ten years of credited service, whichever is latest.

§ 901. Election of benefit enhancements. a. A state employer may elect to provide its employees the benefit enhancements provided for in section nine hundred two of this article.

1. With respect to members of a retirement system employed in the executive branch (including employees of an institution for the instruction of the deaf and of the blind as enumerated in section four thousand two hundred one of the education law), such election shall be made by the governor.

2. With respect to members of a retirement system employed by the senate, such election shall be made by adoption of a resolution by the senate.

3. With respect to members of a retirement system employed by the assembly, such election shall be made by adoption of a resolution by the assembly.

4. With respect to members of a retirement system employed by joint legislative employers, such election shall be made by adoption, and consistent with rules established by, a concurrent resolution of the senate and assembly.

b. An election to provide benefit enhancements pursuant to subdivision a of this section may be made applicable to all employees of a state employer or to all employees who are represented by a specific collective bargaining organization, recognized or certified pursuant to article fourteen of the civil service law, and/or to all employees who are not represented for the purposes of collective bargaining subject to the limitation provided in section nine hundred two of this article.

§ 902. Benefit enhancements. a. 1. An eligible employee (i) with a date of membership in a retirement system prior to July twenty-seventh, nineteen hundred seventy-six and (ii) who was in active service as of

April first, nineteen hundred ninety-nine and continued in active service with a public employer up to and including (A) October first, two thousand or, if earlier, (B) the eligible employee's date of retirement or death, if applicable, (but no earlier than June first, two thousand) shall receive one-twelfth of a year of additional retirement credit for each year of retirement credit for service rendered as of the date of retirement or death, if applicable, up to a maximum of two years of retirement credit. Anything in the preceding sentence notwithstanding, a member of the New York state teachers' retirement system with a date of membership in such system prior to July twenty-seventh, nineteen hundred seventy-six (other than a member who has not rendered at least twenty days of credited service in any plan year beginning on or after July first, nineteen hundred ninety-two) who retires or dies, if applicable, on or after June first, two thousand shall be entitled to receive the additional retirement credit provided for in such sentence from such system.

2. The additional retirement service credit provided for in paragraph one of this subdivision shall not apply to (i) an employee who retires under a retirement plan which allows all members of such plan, without regard to position, a twenty year service retirement without regard to age or to (ii) an employee who retires under a retirement plan which allows for twenty-five year service retirement without regard to age when it has been determined that the criminal law enforcement service creditable for such employee is in the aggregate more than fifty per centum for duties not as a correction officer.

3. Notwithstanding any other provision of law, if the service retirement benefit of an eligible employee is subject to a maximum retirement benefit, the additional benefit authorized by this subdivision shall be computed by multiplying the final average salary times the number of years of service credit granted by this subdivision times the benefit fraction of the plan under which the employee retires.

b. 1. An eligible employee (i) with a date of membership in a retirement system on or after July twenty-seventh, nineteen hundred seventy-six and before January first, two thousand ten, and (ii) who has

ten or more years of membership or ten or more years of credited service with a retirement system under the provisions of article fourteen or fifteen of this chapter shall not be required to contribute to a retirement system pursuant to section five hundred seventeen or six hundred thirteen of this chapter as of the cessation date.

2. No contribution made to a retirement system by an eligible employee prior to the eligible employee's cessation date shall be refunded, except as otherwise allowable pursuant to article fourteen or fifteen of this chapter.

3. Nothing in this subdivision shall affect the obligation of an eligible employee to repay any contributions previously refunded pursuant to article fourteen or fifteen of this chapter with applicable interest pursuant to section six hundred forty-five of this chapter in the event such person rejoins a retirement system. Nothing in this subdivision shall affect the obligation of an eligible employee to pay such amounts as may be required by section five hundred seventeen, six hundred nine or six hundred thirteen of this chapter or by any other provision of law for service rendered prior to such employee's cessation date or for service rendered prior to such employee's date of membership at a time such employee was not a member of a retirement system.

c. The benefit enhancements provided for in this section shall be made available to all eligible employees of a participating employer in a retirement system.

ARTICLE 19-A

BENEFIT ENHANCEMENTS FOR CERTAIN RETIREMENT SYSTEMS IN THE CITY OF NEW YORK

Section 910. Definitions.

911. Benefit enhancements.

§ 910. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is

plainly required by the context:

a. "Retirement system" shall mean the New York city teachers' retirement system, the New York city board of education retirement system or the New York city employees' retirement system.

b. "Eligible member" shall mean a member of a retirement system other than a member who (1) is an employee of the New York city transit authority, and (2) is either (i) subject to the provisions of section 13-161 of the administrative code of the city of New York or (ii) a New York city transit authority member as defined in paragraph one of subdivision a of section six hundred four-b of this chapter.

Notwithstanding any other provision of law to the contrary, the benefits provided herein shall only apply to an eligible member who is a member of a retirement system as defined by subdivision a of this section.

c. "Active service" shall mean (1) service while being paid on the payroll; (2) a leave of absence with pay; (3) other approved leave without pay; (4) any period of time between school terms for a teacher or other employee employed on a school-year basis; and (5) periods of time between regularly scheduled periods of paid service in the city university of New York.

d. "Cessation date" shall mean the later of (1) October first, two thousand or (2) the date on which the eligible member attains ten years of membership or, if earlier, ten years of credited service.

§ 911. Benefit enhancements. a. 1. An eligible member other than a member of the New York city teachers' retirement system (i) with a date of membership in a retirement system prior to July twenty-seventh, nineteen hundred seventy-six and (ii) who was in active service on June first, two thousand and continued in active service until October first, two thousand, shall receive one-twelfth of a year of additional retirement credit for each year of retirement credit for service rendered as of the date of retirement, vesting, transfer or death, if applicable, up to a maximum of two years of retirement credit. Such

additional credit shall be available for all purposes, including fulfilling the qualifying service requirements of Plans A and C, if applicable.

2. An eligible member who is a member of the New York city teachers' retirement system (i) with a date of membership prior to July twenty-seventh, nineteen hundred seventy-six and (ii) who was in active service on October first, two thousand and (A) continued in active service up to and including June thirtieth, two thousand one, shall receive one-twelfth of a year of additional retirement credit for each year of retirement credit for service rendered as of the date of retirement, vesting, transfer or death, if applicable, up to a maximum of one year of retirement credit or (B) continued in active service up to and including June thirtieth, two thousand two, shall receive one-twelfth of a year of additional retirement credit for each year of retirement credit for service rendered as of the date of retirement, vesting, transfer or death, if applicable, up to a maximum of two years of retirement credit. No eligible member shall receive more than two years of retirement credit pursuant to this section. Such additional credit shall be available for all purposes, including fulfilling the qualifying service requirements of Plan A or C, if applicable.

3. Notwithstanding any other provisions of law, if the service retirement benefit of an eligible member is subject to a maximum retirement benefit, including any limitation imposed by section four hundred forty-four of this chapter, the additional benefit authorized by this subdivision shall be computed by multiplying the pensionable salary base times the number of years of service credit granted by this subdivision times the benefit fraction of the plan under which the employee retires.

b. 1. Subject to the provisions of paragraph one-a of this subdivision, and except as provided in paragraph one-b of this subdivision, an eligible member (i) with a date of membership in a retirement system on or after July twenty-seventh, nineteen hundred seventy-six and (ii) who has ten or more years of membership or ten or more years of credited service with a retirement system under the

provisions of article fourteen or fifteen of this chapter shall not be required to contribute to a retirement system pursuant to section five hundred seventeen or six hundred thirteen of this chapter as of the cessation date.

1-a. Notwithstanding the provisions of paragraph one of this subdivision or any other provision of law to the contrary, and except as provided in paragraph one-b of this subdivision, a member of the New York city teachers' retirement system or the New York city board of education retirement system:

(i) who is a twenty-seven year participant in the age fifty-five retirement program (as defined in paragraph twelve of subdivision a of section six hundred four-i of this chapter), and

(ii) who becomes subject to the provisions of article fifteen of this chapter after the effective date of this paragraph, shall contribute to a retirement system pursuant to section six hundred thirteen of this chapter until he or she has completed twenty-seven years of credited service.

1-b. The provisions of this subdivision shall not apply to a New York city uniformed correction/sanitation revised plan member (as defined in subdivision twenty-five of section five hundred one of this chapter), an investigator revised plan member (as defined in subdivision twenty-seven of section five hundred one of this chapter) or a New York city revised plan member (as defined in subdivision m of section six hundred one of this chapter).

2. No contribution made to a retirement system by an eligible member prior to the eligible member's cessation date shall be refunded, except as otherwise allowable pursuant to article fourteen or fifteen of this chapter.

3. Nothing in this subdivision b shall affect the obligation of an eligible member to repay any contributions previously refunded pursuant to article fourteen, fifteen or fifteen-D of this chapter in the event such person rejoins a retirement system. Nothing in this subdivision shall affect the obligation of an eligible member to pay such amounts as

may be required by section five hundred seventeen, six hundred nine or six hundred thirteen of this chapter or by any other provision of law for service rendered prior to such member's date of membership at a time such member was not a member of a retirement system.

ARTICLE 20

CREDIT FOR MILITARY SERVICE RENDERED DURING PERIODS OF MILITARY CONFLICT

Section 1000. Military service credit.

§ 1000. Military service credit. Notwithstanding any law to the contrary, a member of a public retirement system of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, shall be eligible for credit for military service as hereinafter provided:

1. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if the member (a) was honorably discharged from the military, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

2. A member must have at least five years of credited service (not including service granted hereunder) to be eligible to receive credit under this section.

3. To obtain such credit, a member shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and three percent of such member's compensation earned during

the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section. If permitted by rule or regulation of the applicable retirement system, the member may pay such member costs by payroll deduction for a period which shall not exceed the time period of military service to be credited pursuant to this section. In the event the member leaves the employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the appropriate retirement system prior to the effective date of retirement. If the full amount of such member costs is not paid to the appropriate retirement system prior to the member's retirement, the amount of service credited shall be proportional to the total amount of the payments made prior to retirement.

4. In no event shall the credit granted pursuant to this section, when added to credit granted for military service with any retirement system of this state pursuant to this or any other provision of law, exceed a total of three years.

5. To be eligible to receive credit for military service under this section, a member must make application for such credit before the effective date of retirement.

6. All costs for service credited to a member pursuant to this section, other than the member costs set forth in subdivision three of this section, shall be paid by the state and all employers which participate in the retirement system in which such member is granted credit.

7. A member who has purchased military service credit pursuant to section two hundred forty-four-a of the military law shall be entitled to a refund of the difference between the amount paid by the member for such purchase and the amount that would be payable if service had been purchased pursuant to this section.

8. Notwithstanding any other provision of law, in the event of death prior to retirement, amounts paid by the member for the purchase of

military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater death benefit than would have been payable had the member not purchased such credit.

Notwithstanding any other provision of law, in the event of retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater retirement allowance than would have been payable had the member not purchased such credit.

9. Anything to the contrary in subdivision three of this section notwithstanding, to obtain such credit, a member who first joins a public retirement system of the state on or after April first, two thousand twelve shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and six percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section.

ARTICLE 21

LUMP SUM OPTION AT RETIREMENT

Section 1100. Lump sum option at retirement.

§ 1100. Lump sum option at retirement. Certain eligible members of the New York state and local police and fire retirement system, and sheriffs, undersheriffs, deputy sheriffs and correction officers, who are employed in a county which makes an election pursuant to this section, may elect an optional form of retirement pursuant to the terms of this article that provides for a partial lump sum at retirement with a reduced service retirement allowance as hereinafter provided:

1. To be eligible, a member must retire with a service retirement

benefit under a plan that allows retirement at twenty or twenty-five years of service, regardless of age. In addition, the member must have been eligible to retire with a service retirement benefit for at least one year prior to the actual date of retirement.

2. An eligible member may elect to receive a lump sum and a smaller annual retirement allowance. Such lump sum shall not be eligible for any cost-of-living adjustments paid pursuant to section three hundred seventy-eight-a of this chapter.

a. Any member who files for retirement after being eligible to retire for one year may elect to receive a five percent lump sum payment of the actuarial equivalent of his or her retirement allowance at the time of retirement.

b. Any member who files for retirement after being eligible to retire for two years may elect to receive a ten percent lump sum payment of the actuarial equivalent of his or her retirement allowance at the time of retirement.

c. Any member who files for retirement after being eligible to retire for three years may elect to receive a fifteen percent lump sum payment of the actuarial equivalent of his or her retirement allowance at the time of retirement.

d. Any member who files for retirement after being eligible to retire for four years may elect to receive a twenty percent lump sum payment of the actuarial equivalent of his or her retirement allowance at the time of retirement.

e. Any member who files for retirement after being eligible to retire for five years may elect to receive a twenty-five percent lump sum payment of the actuarial equivalent of his or her retirement allowance at the time of retirement.

3. The smaller annual retirement allowance remaining after receipt of the lump sum shall be determined by the actuary using mortality tables

and interest rates determined for this purpose and in effect on the date of retirement.

4. Any lump sum paid pursuant to this article is subject to withholding as required by the internal revenue service and such lump sum may be rolled over as otherwise permitted by the internal revenue code.

5. The comptroller shall promulgate rules and regulations to implement the provisions of this article.

ARTICLE 22

POLICE AND FIRE RETIREMENT PROVISIONS

- Section 1200. Definitions.
- 1201. Applicability.
 - 1201-a. Retirement plan.
 - 1202. Vesting.
 - 1203. Overtime.
 - 1204. Member contributions.
 - 1204-a. Pick up of member contributions by employer.
 - 1205. Recalculation of benefits.
 - 1206. Conflicting provisions.
 - 1207. Loans to members.
 - 1209. Final average salary.
 - 1210. Wages.

§ 1200. Definitions. For purposes of this article the terms:

a. "Member" shall mean a person who is employed as a police officer or firefighter by any employer who first joins the retirement system on or after January first, two thousand ten.

b. "Retirement system" shall mean the New York state and local police and fire retirement system.

§ 1201. Applicability. Notwithstanding any provision of law to the contrary, the provisions of this article shall be applicable to all employees in the retirement system who first joined such system on or after January first, two thousand ten.

§ 1201-a. Retirement plan. Notwithstanding any other law to the contrary, members who first become members of the New York state and local police and fire retirement system on or after January first, two thousand fifteen and are employed by an employer who has elected the benefits of section three hundred eighty-four-d of this chapter shall automatically be enrolled in such section three hundred eighty-four-d retirement plan. Any member so enrolled in the section three hundred eighty-four-d retirement plan may thereafter withdraw from such plan.

§ 1202. Vesting. a. In order to qualify for a service retirement benefit, members subject to the provisions of this article must have a minimum of five years of creditable service.

b. In computing the years of total creditable service of a member, full credit shall be given for military service as defined in subdivisions twenty-nine-a and thirty of section three hundred two of this chapter.

c. In no event shall the vested retirement allowance payable without optional modification be less than the actuarial equivalent of the total which results from the member's contributions accumulated with interest at five percent per annum compounded annually to the date of retirement.

*** § 1203. Overtime.** A member's final average salary shall be calculated in accordance with such provisions of article eight or article eleven of this chapter as govern the member's benefits, except that earnings classified as overtime compensation in an amount in excess of fifteen percent of a member's annual wages not classified as overtime

compensation shall be excluded from such calculation. "Overtime compensation" shall mean, for purposes of this section, compensation paid under any law or policy under which employees are paid at a rate greater than their standard rate for additional hours worked beyond those required, including compensation paid under section one hundred thirty-four of the civil service law and section ninety of the general municipal law.

* NB Effective until January 1, 2027

* § 1203. Overtime. A member's final average salary shall be calculated in accordance with such provisions of article eight or article eleven of this chapter as govern the member's benefits, except that earnings classified as overtime compensation in an amount in excess of fifteen percent of a member's annual wages not classified as overtime compensation shall be excluded from such calculation, provided, however, members who retire on or after January first, two thousand twenty-seven, earnings classified as overtime compensation in an amount in excess of twenty-five percent of a member's annual wages not classified as overtime compensation shall be excluded from such calculation. "Overtime compensation" shall mean, for purposes of this section, compensation paid under any law or policy under which employees are paid at a rate greater than their standard rate for additional hours worked beyond those required, including compensation paid under section one hundred thirty-four of the civil service law and section ninety of the general municipal law.

* NB Effective January 1, 2027

* **§ 1204. Member contributions.** Members who are subject to the provisions of this article shall contribute three percent of annual wages to the retirement system in which they have membership, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

a. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

b. members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;

c. members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;

d. members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and

e. members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local police and fire retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local police and fire retirement system on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-six, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments. Effective April first, two thousand twelve, all members subject to the provisions of this article shall not be required to make member contributions on annual wages

excluded from the calculation of final average salary pursuant to section twelve hundred three of this article. Nothing in this section, however, shall be construed or deemed to allow members to receive a refund of any member contributions on such wages paid prior to April first, two thousand twelve.

Members who are enrolled in a retirement plan that limits the amount of creditable service a member can accrue shall not be required to make contributions pursuant to this section after accruing the maximum amount of service credit allowed by the retirement plan in which they are enrolled. The state comptroller shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed. In no way shall the member contributions made pursuant to this section be used to provide for pension increases or annuities of any kind.

* NB Effective until October 1, 2026

* § 1204. Member contributions. Members who are subject to the provisions of this article shall contribute three percent of annual wages to the retirement system in which they have membership, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

a. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

b. members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute three and one-half per centum of annual wages;

c. members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall

contribute four and one-half per centum of annual wages;

d. members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute five and three-quarters per centum of annual wages; and

e. members with wages greater than one hundred thousand dollars per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local police and fire retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local police and fire retirement system on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-eight, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year, except that beginning on and after October first, two thousand twenty-six, for members who first became members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, the contributions in any current plan year (April first to March thirty-first) shall be determined by reference to the base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:

(i) members with wages of seventy-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(ii) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute four per centum of annual wages;

(iii) members with wages greater than one hundred thousand dollars per annum but not more than one hundred twenty-five thousand dollars per

annum shall contribute five and one-quarter per centum of annual wages; and

(iv) members with wages greater than one hundred twenty-five thousand dollars per annum shall contribute five and three-quarters per centum of annual wages.

Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but from April first, two thousand twenty-two through March thirty-first, two thousand twenty-eight shall not include any overtime payments. Effective April first, two thousand twelve, all members subject to the provisions of this article shall not be required to make member contributions on annual wages excluded from the calculation of final average salary pursuant to section twelve hundred three of this article. Nothing in this section, however, shall be construed or deemed to allow members to receive a refund of any member contributions on such wages paid prior to April first, two thousand twelve.

Members who are enrolled in a retirement plan that limits the amount of creditable service a member can accrue shall not be required to make contributions pursuant to this section after accruing the maximum amount of service credit allowed by the retirement plan in which they are enrolled. The state comptroller shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed. In no way shall the member contributions made pursuant to this section be used to provide for pension increases or annuities of any kind.

* NB Effective October 1, 2026

*** § 1204-a. Pick up of member contributions by employer. a.**

Notwithstanding any other provision of law, each participating employer shall pick up the member contributions required to be made under section twelve hundred four of this article by its employees and shall do so by reducing the salary of each of its employees to which this section is applicable by that amount which each such employee is required to

contribute under section twelve hundred four of this article. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees under this section and shall be treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code. With the exception of federal income tax treatment, the member contributions picked up pursuant to this subdivision shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary.

b. Any employee (subject to this article) of a participating employer who, in lieu of joining a public retirement system of the state, elected an optional retirement program to which their employers are thereby required to contribute shall, in order for the provisions of this subdivision to apply, be required to execute a salary reduction agreement (in accordance with the regulations promulgated under section 403(b) of the Internal Revenue Code) in an amount equal to the employee contributions which would otherwise be mandatory under the provisions of state law. With the exception of federal income tax treatment, the employee contributions picked up or paid pursuant to this subdivision shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding any provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* NB See ch 525/2011 § 7 for effectiveness

§ 1205. Recalculation of benefits. Notwithstanding any other provision of law, any member who has joined the retirement system pursuant to the provisions of article fourteen of this chapter on or after July first, two thousand nine may elect to have his or her retirement benefits calculated pursuant to this article by filing within one hundred twenty days of the effective date of this section a request for such calculation with the retirement system in the form and manner prescribed by the state comptroller.

§ 1206. Conflicting provisions. Except as otherwise provided in this article, or in conflict therewith, the provisions of article eleven of this chapter, including any plan that has been elected by the employer or is otherwise applicable under article eight of this chapter shall govern the retirement benefits provided under this article. In the event of any conflict between the provisions of this article and any other provision of law, this article shall govern.

§ 1207. Loans to members. a. 1. Notwithstanding any general, special or local law to the contrary, a member in active service who has credit for at least one year of member service may borrow, no more than once within each twelve month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section twelve hundred four of this article or any other article of this chapter and not less than one thousand dollars.

2. A member who first joins such system on or after January first, two thousand eighteen in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount, not less than one thousand dollars and which would not cause the balance owed pursuant to this section, including any amounts borrowed then outstanding, to exceed (i) fifty percent of the member's total contributions made pursuant to section twelve hundred four of this article (including interest credited at the rate set forth in subdivision c of this section compounded annually); or (ii) fifty thousand dollars, whichever is less.

b. An amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid in equal installments which shall be made by the borrower directly to the retirement system or through regular payroll deduction. Such installments shall be in such amount as the retirement system shall approve; however, they shall be at least (a) two percent of the member's contract salary, and (b) sufficient to repay the amount borrowed, together with interest on unpaid balances thereof,

within a period not in excess of five years. In the event of default, the retirement system shall be authorized to collect such payments due from the employer of such member through payroll deduction and such member shall forfeit all future entitlement to borrow from the retirement system until the unpaid balance of the loan outstanding at the time of default is fully paid. The retirement system, at any time, may accept payments on account of any loan in addition to the installments fixed for repayment thereof. All payments of principal and interest at the rates set forth in subdivision c of this section made by the member shall be credited to his or her account as principal or interest. Any additional interest paid by the member shall be credited to the appropriate fund of the retirement system.

c. The rate of interest payable upon loans made pursuant to this section shall be one percent less than the valuation rate of interest adopted for such system. Whenever there is a change in the interest rate, it shall be applicable to loans made or renegotiated after the date of such change in the interest rate.

d. A service charge payable upon loans made pursuant to this section shall be set by the retirement system in an amount sufficient to cover the cost to the retirement system of administering the loans. Such charge shall be paid to the retirement system when the loan is made or in equal installments over the period the loan is outstanding. The amount of the service charge shall be credited to the fund from which administrative expenses are paid.

e. 1. Each loan made pursuant to this section shall be insured against the death of the member in an amount equal to the amount of the loan outstanding at any given time; with the exception that until thirty days have elapsed after the making thereof, no part of the loan shall be insured. Such insurance shall be provided by the retirement system. Upon the death of the member, the amount of insurance so payable shall be credited to his or her account. The premium payable by the member for such insurance shall be set by the retirement system at a rate not to exceed one percent of the amount loaned.

2. Such premium shall be prorated to July first next, or such other date fixed by the retirement system as is appropriate, and shall be paid to the retirement system in equal installments over the period of the loan. Thereafter, a premium not to exceed one percent per annum of the present value of the outstanding loan as of July first, or such other appropriate date, shall be paid in the same manner each succeeding year until such loan is repaid or the member is retired.

3. The retirement system shall, at least annually, review such premium rate, and may, in its discretion, increase or reduce the premium, modify the terms or conditions of coverage, or discontinue the insurance of loans. In no event shall this subdivision impose any obligation upon the retirement system to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms or conditions.

f. The retirement system is authorized to establish such special funds as may be necessary to carry out the provisions of subdivisions d and e of this section.

g. Whenever a member of such a retirement system, for whom a loan is outstanding, becomes entitled to the return of his or her contributions because of withdrawal from such system or because of death, the amount of any loan outstanding on such date, including accrued interest as provided in subdivision d of this section, shall be construed to already have been returned to such member and the refund of contributions to which he shall then be entitled shall be the net amount of such contributions together with interest thereon.

h. Notwithstanding any general or special law to the contrary, whenever a member of the retirement system, for whom a loan is outstanding, retires, the retirement allowance payable without optional modification shall be reduced by a life annuity which is actuarially equivalent to the amount of the outstanding loan (all outstanding loans shall continue to accrue interest charges until retirement), such life annuity being calculated utilizing the interest rate on thirty year United States treasury bonds as of January first of the calendar year of the effective date of retirement and the mortality tables for options

available under section five hundred fourteen of this chapter.

i. The retirement system shall adopt such rules and regulations as it finds to be necessary in administering the provisions of this section.

j. The retirement system shall discharge any evidence of a loan to a member pursuant to this section upon the satisfaction of the obligation of the member thereunder.

k. The retirement system shall have no right to bring suit in any court against any member to enforce the amount due under this section, and the retirement system's sole remedy upon death, retirement or withdrawal shall be to offset the amount outstanding including interest from the member's account or other benefits payable to or on behalf of the member as provided in this section.

§ 1209. Final average salary. a. For members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, a member's final average salary shall be equal to one-fifth of the highest total wages earned by such member during any continuous period of employment for which the member was credited with five years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary exceeds the average of the wages of the previous four years of credited service by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary. Provided, however, beginning on or after April first, two thousand twenty-four, a member's final average salary shall be equal to one-third of the highest total wages earned by such member during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary. Wages in excess

of the annual salary paid to the governor pursuant to section three of article four of the state constitution shall be excluded from the computation of final average salary for members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve.

b. Notwithstanding subdivision a of this section, members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, and who retire from an employer which, prior to April first, two thousand twelve, elected by the adoption, filing and approval of a resolution in the manner provided by section three hundred thirty of this chapter to provide that final average salary shall mean the regular compensation earned from such participating employer by a member during the twelve months of actual service immediately preceding the date of such member's retirement pursuant to subdivision f of section four hundred forty-three of this chapter, shall continue to have his or her final average salary computed with such twelve month final average salary unless such member would otherwise be entitled to a greater benefit under subdivision a of this section, in which case such greater benefit shall be payable.

§ 1210. Wages. For members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, the following items shall not be included in the definition of wages: a. wages in excess of the annual salary paid to the governor pursuant to section three of article four of the state constitution, b. lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked, c. any form of termination pay, d. any additional compensation paid in anticipation of retirement, and e. in the case of employees who receive wages from three or more employers in a twelve month period, the wages paid by the third and each successive employer.

ARTICLE 23
BENEFIT ENHANCEMENTS

Section 1300. Definitions.

1301. Election of benefit enhancements.

1302. Benefit enhancements.

1303. Additional member contributions.

1304. Election not collectively bargained.

§ 1300. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

a. "Retirement system" shall mean the New York state and local employees' retirement system and the New York state teachers' retirement system.

b. "Eligible employee", subject to the limitations of section thirteen hundred two of this article, shall mean a state employee that becomes a member of a retirement system who first became a member of such system on or after April first, two thousand twelve who is identified as eligible to receive the benefit enhancements provided for in this article upon election by the state of New York pursuant to section thirteen hundred one of this article.

§ 1301. Election of benefit enhancements. a. The state of New York may elect to provide its employees the benefit enhancements provided for in section thirteen hundred two of this article.

b. A separate election to provide benefit enhancements pursuant to subdivision a of this section must be made for each specific collective bargaining organization, recognized or certified pursuant to article fourteen of the civil service law.

c. Such election is made by the governor to the retirement system upon receipt of a request from the collective bargaining organization, recognized or certified pursuant to article fourteen of the civil service law to represent such eligible employees. No such petition shall

be required for employees who are not represented for the purposes of collective bargaining subject to the limitation provided in section nine hundred two of this chapter.

§ 1302. Benefit enhancements. Notwithstanding any other law to the contrary, eligible employees shall be permitted to retire, without penalty, upon reaching age fifty-seven and completing at least thirty years of credited service. Employees retiring pursuant to this section shall receive a pension allowance equal to the sum of thirty-five per centum and one-fiftieth of final average salary for each year of service in excess of twenty times final average salary times years of credited service.

§ 1303. Additional member contributions. Upon election by the state of New York, the retirement system shall require additional member contributions to be paid by all eligible employees. The additional member contributions to be paid by eligible employees shall be of a level so that no additional contributions shall be paid by the state to cover the cost of such additional benefits. Additional member contributions made pursuant to this section shall be in addition to member contributions made pursuant to other provisions of this chapter.

§ 1304. Election not collectively bargained. The determination to make an election in accordance with this article shall not be deemed to be, or to relate to or affect, a term and condition of employment within the meaning of article fourteen of the civil service law or any local law enacted in furtherance thereof.

ARTICLE 24

BENEFIT ENHANCEMENTS

Section 1310. Definitions.

1311. Election of benefit enhancements.

1312. Benefit enhancements.

1313. Additional member contributions.

1314. Election not collectively bargained.

§ 1310. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

a. "Retirement system" shall mean the New York state and local employees' retirement system and the New York state teachers' retirement system.

b. "Eligible employee", subject to the limitations of section thirteen hundred twelve of this article, shall mean a member of a retirement system who first became a member of such system on or after April first, two thousand twelve who is identified as eligible to receive the benefit enhancements provided for in this article upon election by the state of New York pursuant to section thirteen hundred eleven of this article.

§ 1311. Election of benefit enhancements. a. The state of New York may elect to provide employees who hold a position represented by the recognized collective bargaining units affiliated with the New York state united teachers employee organization as certified by his or her employer the benefit enhancements provided for in section thirteen hundred twelve of this article.

b. Such election is made by the governor to the retirement system upon receipt of a request by the New York state united teachers employee organization.

§ 1312. Benefit enhancements. Notwithstanding any other law to the contrary, eligible employees shall be permitted to retire, without penalty, upon reaching age fifty-seven and completing at least thirty years of credited service. Employees retiring pursuant to this section shall receive a pension allowance equal to the sum of thirty-five per

centum and one-fiftieth of final average salary for each year of service in excess of twenty times final average salary times years of credited service.

§ 1313. Additional member contributions. Upon election by the state of New York, the retirement system shall require additional member contributions to be paid by all eligible employees. The additional member contributions to be paid by eligible employees shall be of a level so that no additional contributions shall be paid by the state or participating employers in the retirement system to cover the cost of such additional benefits. Additional member contributions made pursuant to this section shall be in addition to member contributions made pursuant to other provisions of this chapter.

§ 1314. Election not collectively bargained. The determination to make an election in accordance with this article shall not be deemed to be, or to relate to or affect, a term and condition of employment within the meaning of article fourteen of the civil service law or any local law enacted in furtherance thereof.

ARTICLE 25

BENEFIT ENHANCEMENTS

Section 1320. Definitions.

1321. Election of benefit enhancements.

1322. Benefit enhancements.

1323. Additional member contributions.

1324. Election not collectively bargained.

§ 1320. Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

a. "Retirement system" shall mean the New York city employees'

retirement system, the New York city teachers' retirement system, and the New York city board of education retirement system.

b. "Eligible employee", subject to the limitations of section thirteen hundred twenty-two of this article, shall mean a member of a retirement system who first became a member of such system on or after April first, two thousand twelve who is identified as eligible to receive the benefit enhancements provided for in this article upon election by the city of New York pursuant to section thirteen hundred twenty-one of this article.

§ 1321. Election of benefit enhancements. a. The city of New York may elect to provide its employees the benefit enhancements provided for in section thirteen hundred twenty-two of this article.

b. A separate election to provide benefit enhancements pursuant to subdivision a of this section must be made for each specific collective bargaining organization, recognized or certified pursuant to article fourteen of the civil service law.

c. Such election may be made at the sole discretion of the mayor of the city of New York to the retirement systems upon receipt of a request from the collective bargaining organization, recognized or certified pursuant to article fourteen of the civil service law to represent such eligible employees. No such petition shall be required for employees who are not represented for the purposes of collective bargaining subject to the limitation provided in section nine hundred two of this chapter.

§ 1322. Benefit enhancements. Notwithstanding any other law to the contrary, eligible employees shall be eligible to receive benefits specified by the mayor of the city of New York, provided that the petition provided pursuant to subdivision c of section thirteen hundred twenty-one of this article requested the election of such benefits.

§ 1323. Additional member contributions. Upon election by the city of New York, the retirement system shall require additional member contributions to be paid by all eligible employees. The additional member contributions to be paid by eligible employees shall be of a level so that no additional contributions shall be paid by the city of New York to cover the cost of such additional benefits. Additional member contributions made pursuant to this section shall be in addition to member contributions paid pursuant to other provisions of this chapter.

§ 1324. Election not collectively bargained. The determination to make an election in accordance with this article shall not be deemed to be, or to relate to or affect, a term and condition of employment within the meaning of article fourteen of the civil service law or any local law enacted in furtherance thereof.